

TENTH DAY
(Friday, July 26, 1991)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Lyon.

A quorum was announced present.

The Reverend Albert Elam, First Baptist Church, Dale, offered the invocation as follows:

Our Father which art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done on earth, as it is in heaven. Give us grace with understanding for our responsibility, patience to work with others and courage to do that which is right. We ask these blessings in Jesus' name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Lyon was granted leave of absence for today on account of important business on motion of Senator Brooks.

CO-AUTHORS OF SENATE BILL 82

On motion of Senator Brooks and by unanimous consent, Senators Lucio and Bivins will be shown as Co-authors of S.B. 82.

MESSAGE FROM THE HOUSE

House Chamber
July 26, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 2, Relating to the oversight and regulation of the state's environmental resources, natural resources, and energy resources; providing civil and criminal penalties. (As substituted and amended)

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

GUEST PRESENTED

The President introduced to the Senate the Sergeant-at-Arms of the California Senate, Tony Beard, who is here observing the Texas Legislature in session.

The Senate welcomed Mr. Beard.

REPORT OF STANDING COMMITTEE

Senator Glasgow submitted the following report for the Committee on State Affairs:

C.S.S.B. 7

C.S.H.B. 9

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 83 by Glasgow, Dickson State Affairs
Relating to the governing board and executive director of the Texas Department of Commerce and the community development block grant program.

S.B. 84 by Harris of Dallas Finance
Relating to the imposition of a sales tax on the sale of mixed beverages.

S.B. 85 by Glasgow State Affairs
Relating to racetrack admission fees collected by a county or municipality.

SENATE RESOLUTION 50

Senator Sims offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing one of its most distinguished members, Senator John N. Leedom, on the grand occasion of his 70th birthday, July 27, 1991; and

WHEREAS, A native of Dallas, Texas, John Leedom received an electrical engineering degree from Rice University in 1943 and served with the United States Navy during World War II; and

WHEREAS, A successful businessman, he was founder and is president of Wholesale Electronic Supply, Incorporated, in Dallas; and

WHEREAS, A member of the Texas State Senate since 1980, Senator Leedom has served his constituency and the people of Texas with loyalty and dedication; and

WHEREAS, A man of many talents and versatility, Senator Leedom serves as Vice-Chairman of the Senate Committee on Intergovernmental Relations and is a member of the State Affairs and Economic Development Committees; and

WHEREAS, He served as President Pro Tempore during the Regular Session of the 71st Legislature and was appointed to the Texas Commission on Economy and Efficiency in State Government, the Select Joint Committee on the Organization of State Agencies, and the Governor's Accounting, Auditing, and Financial Reporting Task Force; and

WHEREAS, Noted for his exceptional achievements, Senator Leedom was instrumental in establishing a real property asset management system for the state, improving the cash flow management of state funds, and creating a state travel office and employee productivity bonus program; and

WHEREAS, An exemplary gentleman whose wealth of knowledge has been invaluable to the Legislature, Senator Leedom has had an outstanding career; and

WHEREAS, Devoted to the State of Texas and highly accomplished, he has served the Senate with distinction and has managed to contribute his time and energy to numerous community organizations; and

WHEREAS, Throughout the years of his career, he has had the support of his wife, Betty, and his children, Joanne, Danny, Judy, Linda, and John; and

WHEREAS, A proud and loving grandfather, John Leedom cherishes time spent with his 14 grandchildren; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 1st Called Session, hereby extend best wishes to Senator John Leedom for a joyous birthday; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sims, the resolution was adopted by a viva voce vote.

(Senator Armbrister in Chair)

CAPITOL PHYSICIAN

The "Doctor for the Day," Dr. Nilon Tallant of San Marcos, was introduced to the Senate by Senator Barrientos.

The Senate expressed appreciation and gratitude to Dr. Tallant for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

GUEST PRESENTED

Senator Henderson was recognized and introduced County Commissioner Steve Radack of Harris County.

The Senate welcomed Commissioner Radack.

HOUSE BILL 7 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 7, Relating to the delivery of health and human services including the powers and duties of the Health and Human Services Commission, Texas Department of Health, and other state agencies.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 7** by striking all below the enacting clause and substituting in lieu thereof the following:

ARTICLE 1. HEALTH AND HUMAN SERVICES COMMISSION

SECTION 1.01. Title 70, Revised Statutes, is amended by adding Article 4413(502) to read as follows:

Art. 4413(502). **HEALTH AND HUMAN SERVICES COMMISSION**

Sec. 1. DEFINITIONS. In this article "commission" means the Health and Human Services Commission.

Sec. 2. HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is an agency of the state. The commission is the state agency with primary responsibility for ensuring the delivery of state

health and human services in a manner that uses an integrated system to determine client eligibility and that maximizes the use of federal, state, and local funds.

(b) The commission's goals are to:

(1) maximize federal funds through the efficient use of available state and local resources;

(2) provide a system that delivers prompt, comprehensive, effective services to the people of Texas by improving access to health and human services at the local level and by eliminating architectural, communications, programmatic, and transportation barriers;

(3) promote the health of the people of Texas by:

(A) reducing the incidence of disease and disabling conditions;

(B) increasing the availability of health care services;

(C) improving the quality of health care services;

(D) addressing the high incidence of certain illnesses

and conditions of minority populations;

(E) increasing the availability of trained health care

professionals;

(F) improving knowledge of health care needs;

(G) reducing infant death and disease;

(H) reducing the impact of mental disorders in adults;

(I) reducing the impact of emotional disturbances in

children;

(J) increasing participation in nutrition programs;

(K) increasing nutritional education; and

(L) reducing substance abuse;

(4) foster the development of responsible, productive, and self-sufficient citizens by:

(A) improving work force skills;

(B) increasing employment, earnings, and benefits;

(C) increasing housing opportunities;

(D) increasing child-care and other dependent-care

services;

(E) improving education and vocational training to

meet specific career goals;

(F) reducing school dropouts;

(G) reducing teen pregnancy;

(H) improving parental effectiveness;

(I) increasing support services for people with

disabilities;

(J) increasing services to help people with disabilities

maintain or increase their independence;

(K) improving access to work sites, accommodations, transportation, and other public places and activities covered by the federal Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. Section 1210 note); and

(L) improving services to juvenile offenders;

(5) provide needed resources and services to the people of Texas when they cannot provide or care for themselves by:

(A) increasing support services for adults and their families during periods of unemployment, financial need, or homelessness;

(B) reducing extended dependency on basic support services; and

(C) increasing the availability and diversity of long-term care provided to support people with chronic conditions in settings that focus on

community-based services with options ranging from their own homes to total-care facilities; and

(6) protect the physical and emotional safety of all the people of Texas by:

(A) reducing abuse, neglect, and exploitation of elderly people and adults with disabilities;

(B) reducing child abuse and neglect;

(C) reducing family violence;

(D) increasing services to truants and runaways, children at risk of truancy or running away, and their families;

(E) reducing crime and juvenile delinquency;

(F) reducing community health risks; and

(G) improving regulation of human service providers.

Sec. 3. APPLICATION OF SUNSET ACT. The commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this article expires September 1, 1999.

Sec. 4. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE. The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 5. COMPOSITION OF COMMISSION; TERMS; OFFICERS. (a) The commission is composed of three full-time members appointed by the governor with the advice and consent of the senate.

(b) The governor shall designate the chair from among the members of the commission who shall serve as the administrative head of the commission.

(c) Commission members serve for six-year terms expiring February 1 of odd-numbered years.

(d) The governor shall serve as an ex officio member of the commission.

Sec. 6. ELIGIBILITY FOR APPOINTMENT. (a) A person is not eligible for appointment as a commission member if the person or the person's spouse is an employee, officer, or paid consultant of a trade association in a field under the commission's jurisdiction.

(b) A person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation in or on behalf of a profession related to a field under the commission's jurisdiction may not serve as a member of the commission.

(c) Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees.

(d) A person is not eligible for appointment as a commission member if the person has a financial interest in a corporation, organization, or association under contract with the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center.

Sec. 7. DIVISIONS OF COMMISSION. (a) The commission may establish divisions within the commission as necessary for effective administration and the discharge of the commission's functions.

(b) The commission may allocate and reallocate functions among the commission's divisions.

Sec. 8. PERSONNEL. (a) The chair of the commission may employ personnel necessary for the administration of the commission's duties.

(b) The chair or the chair's designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all non-entry-level positions concurrently with any public posting.

(c) The chair or the chair's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

(d) The chair shall provide to commission employees as often as is necessary information regarding their qualifications under this article and their responsibilities under applicable laws relating to standards of conduct for state employees.

(e) The chair or the chair's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the commission work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant underutilization in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance.

(f) The policy statement required under Subsection (e) shall be filed with the governor's office before September 1, 1992, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 9. MERIT SYSTEM. The commission may establish a merit system for its employees. The merit system may be maintained in conjunction with other state agencies that are required by federal law to operate under a merit system.

Sec. 10. COORDINATED STRATEGIC PLAN FOR HEALTH AND HUMAN SERVICES. (a) The commission shall develop a coordinated, six-year strategic plan for health and human services in the state and shall update the plan biennially. The commission shall submit the initial plan and each biennial update of the plan to the governor, lieutenant governor, and speaker of the house of representatives no later than October 15 of each even-numbered year, with the initial plan submitted no later than October 15, 1992.

(b) The plan must include the following goals:

(1) the development of a comprehensive, statewide approach to the planning of health and human services;

(2) the creation of a continuum of care for families and individuals in need of health and human services with a focus on community-based services;

(3) the integration of health and human services to provide for the efficient and timely delivery of those services;

(4) the maximization of existing resources through effective funds management and the sharing of administrative functions;

(5) effective use of management information systems to continually improve service delivery;

(6) the provision of system wide accountability through effective monitoring mechanisms;

(7) the promotion of teamwork among all health and human services agencies and the provision of incentives for creativity; and

(8) the fostering of innovation at the local level.

(c) In developing a strategic health and human services plan and plan updates under this section, the commission shall consider:

(1) existing strategic plans of health and human services agencies;
(2) facilitation of pending reorganizations or consolidations of health and human services agencies and programs;

(3) public comment, including comment documented through public hearings conducted under Section 11 of this article; and

(4) budgetary issues, including projected agency needs and projected availability of funds.

(d) All health and human services agencies shall submit strategic plans and biennial updates to the commission on a date to be determined by commission rule.

Sec. 11. PUBLIC HEARINGS ON HEALTH AND HUMAN SERVICES ISSUES. (a) The commission biennially shall conduct a series of public hearings in diverse locations throughout the state to give citizens of the state an opportunity to comment on health and human services issues. Hearings held under this article are subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes). In addition to the notice required by that law, the commission shall provide written notification to public officials in the affected area and shall publish notice of a public hearing under this article in a newspaper of general circulation in the county in which the hearing is to be held. If that county does not have a newspaper of general circulation, the commission shall publish notice in a newspaper of general circulation in an adjacent county or in the nearest county in which a newspaper of general circulation is published. The notice shall be published once a week for two consecutive weeks before the hearing, with the first publication appearing no later than the 15th day before the date set for the hearing.

(b) In conducting public hearings under this article, the commission shall, to the greatest extent possible, encourage participation in the hearings process by diverse groups of citizens in the state. Hearings shall be set in both rural and urban areas, with an emphasis on geographic diversity.

Sec. 12. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(b) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(c) The commission by rule shall establish methods by which the public, consumers, and service recipients can be notified of the mailing addresses and telephone numbers of appropriate agency personnel for the purpose of directing complaints to the commission. The commission may provide for that notification:

(1) on each registration form, application, or written contract for services of a person or entity regulated by the commission;

(2) on a sign prominently displayed in the place of business of each person or entity regulated by the commission; or

(3) in a bill for service provided by a person or entity regulated by the commission.

(d) The commission shall keep an information file about each complaint filed with the commission relating to:

(1) a license holder or entity regulated by the commission; or

(2) a service delivered by the commission.

(e) If a written complaint is filed with the commission relating to a license holder or entity regulated by the commission or a service delivered by the

commission, the commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

Sec. 13. CONSOLIDATED HEALTH AND HUMAN SERVICES BUDGET. (a) The commission shall prepare and submit to the Legislative Budget Board and the governor by October 1 of even-numbered years a consolidated health and human services budget recommendation.

(b) The commission shall base the consolidated budget recommendation prepared under this article on priorities set in the commission's coordinated strategic plan for health and human services.

(c) All health and human services agencies shall submit to the commission a biennial agency legislative appropriations request on a date to be determined by commission rule.

Sec. 14. GENERAL POWERS AND DUTIES. (a) The commission shall:

(1) arbitrate and render a final decision on interagency disputes;
(2) facilitate and enforce coordinated planning and delivery of health and human services, including compliance with the coordinated strategic plan, co-location of services, integrated intake, and coordinated referral and case management;

(3) request budget execution for the transfer of funds from one agency to another;

(4) manage federal health and human services funds and maximize the availability of those funds;

(5) develop with the Department of Information Resources automation standards for computer systems to enable health and human services agencies to share pertinent data;

(6) establish and enforce uniform regional boundaries for all health and human services agencies;

(7) carry out statewide health and human services needs surveys and forecasting;

(8) perform independent special outcome evaluations of health and human services programs and activities; and

(9) adopt rules necessary to carry out its duties.

(b) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 15. REVIEW OF AGENCY RULE MAKING. (a) The commission shall review all proposed rules of health and human services agencies and shall notify an agency within the designated review period for a proposed rule if the commission requires withdrawal or amendment of the proposed rule. On notification by the commission, the agency shall either withdraw or amend and resubmit the proposed rule.

(b) The commission shall review agency rules for compliance with the coordinated strategic plan, existing statutory authority, rules of other health and human services agencies, and budgetary implications.

Sec. 16. ADMINISTRATION OF MEDICAID PROGRAM. On approval by the federal government, the commission is the state agency designated to administer federal medical assistance funds.

Sec. 17. REFERENCE GUIDE; DICTIONARY. (a) The commission shall publish a biennial reference guide describing available public health and human services in the state and shall make the guide available to all interested parties and agencies.

(b) The reference guide shall include a dictionary of uniform terms and services.

Sec. 18. ADVISORY COMMITTEES. The commission may appoint advisory committees as needed. A member of an advisory committee is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act.

Sec. 19. HEALTH AND HUMAN SERVICES AGENCIES. In this article, "health and human services agencies" includes:

- (1) Interagency Council on Early Childhood Intervention Services;
- (2) Texas Department on Aging;
- (3) Texas Commission on Alcohol and Drug Abuse;
- (4) Texas Commission for the Blind;
- (5) Texas Cancer Council;
- (6) Texas Commission for the Deaf and Hearing Impaired;
- (7) Texas Department of Health;
- (8) Texas Department of Human Services;
- (9) Texas Juvenile Probation Commission;
- (10) Texas Department of Mental Health and Mental Retardation;
- (11) Texas Rehabilitation Commission;
- (12) Texas Youth Commission; and
- (13) Children's Trust Fund of Texas Council.

Sec. 20. CLIENT IDENTIFICATION AND TRACKING. (a) Each health and human services agency under this article shall institute a system of client identification and tracking. Such system shall utilize all available client data including social security number and voter registration number.

(b) A client who is eligible for a social security number or voter registration but who does not have such number or registration shall be assisted by the health and human services agency to properly obtain a social security number and be properly registered to vote. No person eligible for a social security number or person eligible to vote may be served by a health and human services agency under this article until such person has obtained or made proper application for a social security number and voter registration certificate.

SECTION 1.02. INITIAL APPOINTMENT OF COMMISSION MEMBERS. The governor shall appoint the initial members of the Health and Human Services Commission not later than January 1, 1992. In making the initial appointments, the governor shall appoint one member to serve a term expiring February 1, 1993, one member to serve a term expiring February 1, 1995, and one member to serve a term expiring February 1, 1997.

SECTION 1.03. TRANSITION DUTIES OF THE COMMISSION. (a) During the 1992-1993 biennium the Health and Human Services Commission is responsible for, in addition to the general duties established in Section 1.01 of this article, the following:

- (1) establishing a federal funds management system for all health and human services to maximize local, state, and federal resources;
- (2) designing of local systems for improved access to services and the efficient delivery thereof, including co-location of offices, computerized integrated eligibility determination, coordinated information and referral, and enhanced local decision making;
- (3) holding public hearings and establishing uniform regional boundaries for all health and human services agencies by September 1, 1992;
- (4) reviewing programs with similar functions for consolidation, requesting budget execution if appropriate to effect the transfer of programs, and submitting to the 73rd Legislature any statutory revisions necessary; and
- (5) reviewing and recommending to the 73rd Legislature any necessary changes in the:

Intervention;
 Disabilities;
 Investigations;

(A) Interagency Council on Early Childhood
 (B) Texas Planning Council for Developmental
 (C) Attorney General's Office of Youth Care
 (D) Governor's Committee for Disabled Persons;
 (E) Office for Prevention of Developmental Disabilities;
 (F) statewide health coordinating council; and
 (G) any other existing interagency health and human
 services entities.

(b) In addition to completing the consolidation of protective and regulatory services and health services in Sections 1.04 and 1.05 of this article, the Health and Human Services Commission shall submit to the governor and the 73rd Legislature by January 1, 1993, its recommendations and implementation plan for functional consolidation of the remaining agencies, programs, and other activities as appropriate. The commission shall work with the Texas Legislative Council in preparing necessary statutory revisions.

(c) To facilitate the implementation of the transfer of functions, programs, and activities among the state's health and human services agencies with a minimal negative effect on the delivery of health and human services to the residents of this state, the commission shall oversee and assist in the transfer of functions among agencies as provided by this article.

(d) The commission shall determine for each function, program, and activity scheduled for transfer:

- (1) the relevant agency actions that constitute each function, program, and activity;
- (2) the pertinent records, property, and equipment used by a state agency for each function, program, or activity;
- (3) the state agency employees whose primary duties involve a function, program, or activity; and
- (4) state agency funds and obligations that are related to functions, programs, or activities.

(e) Based on the determinations made under Subsection (b) of this section, the commission shall assist the agencies in transferring functions, programs, activities, records, equipment, property, funds, obligations, and employees in accordance with the transfer schedule.

(f) Not later than the 30th day before the date a transfer of a function, program, activity, or related funds, equipment, property, obligations, or employees is scheduled to occur under this article, the commission, if it so finds, shall certify to the governor, the lieutenant governor, and speaker of the house of representatives that the transfer is not possible or practical. In determining if a transfer is not possible or practical, the commission shall consider whether:

- (1) required federal approval for the transfer has been obtained;
- (2) the transferring agency and the receiving department have agreed on the details relating to the transfer;
- (3) the transfer will cause an undue disturbance in the delivery of relevant services to the target population; and
- (4) other necessary conditions have been met.

(g) On receipt of the certification by the commission, the governor by executive order may postpone the transfer of the function, program, activity, or related funds, equipment, property, obligations, or employees.

(h) In this section, "commission" means the Health and Human Services Commission established by Article 4413(502), Revised Statutes, as added by this Act.

SECTION 1.04. TRANSFER OF PROPERTY, RECORDS, OBLIGATIONS, FUNDS, PROGRAMS, AND ACTIVITIES TO THE HEALTH AND HUMAN SERVICES COMMISSION. (a) On September 1, 1992, all functions, programs, and activities related to the child protective services program, including adoption and foster care, are transferred from the Department of Human Services to the Health and Human Services Commission.

(b) On September 1, 1992, the functions, programs, and activities of the Texas Department of Mental Health and Mental Retardation relating to investigations of abuse and neglect are transferred to the Health and Human Services Commission.

(c) On September 1, 1993, or an earlier date provided by an interagency agreement with the affected agencies, the following functions, programs, and activities are transferred to the Health and Human Services Commission:

(1) except as provided in Section 1.06 of this article, from the Texas Department of Health:

(A) long-term care activity;

(B) functions, programs, and activities concerning institutions; and

(C) the institutional component of licensing and certification activity;

(2) from the Texas Department of Human Services:

(A) the adult protective services program, including investigations and client services; and

(B) activity concerning licensure of child care facilities.

(d) On the dates specified in Subsections (a), (b), and (c) of this section, all obligations of an entity listed in the respective subsection related to a function, program, or activity transferred under that subsection are transferred to the Health and Human Services Commission.

(e) On the dates specified in Subsections (a), (b), and (c) of this section, all property and records in the custody of an entity listed in the respective subsection related to a function, program, or activity transferred under that subsection and all funds appropriated by the legislature for the function, program, or activity shall be transferred to the Health and Human Services Commission.

(f) On the dates specified in Subsections (a), (b), and (c) of this section, all employees of an entity listed in the respective subsection who perform the duties transferred under that subsection become employees of the Health and Human Services Commission, to be assigned to duties at the direction of the chair of the commission.

(g) A rule or form adopted by an entity listed in Subsection (a), (b), or (c) of this section that relates to a function, program, or activity transferred under those subsections is a rule or form of the Health and Human Services Commission and remains in effect until altered by the commission. The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this section.

SECTION 1.05. TRANSFER OF PROPERTY, RECORDS, OBLIGATIONS, FUNDS, FUNCTIONS, PROGRAMS, AND ACTIVITIES TO THE HEALTH AND HUMAN SERVICES COMMISSION. (a) On September 1, 1993, the following functions, programs, and activities are transferred to the Health and Human Services Commission:

(1) from the Texas Department of Human Services:

(A) preventive services programs;

(B) early and periodic screening and diagnosis and treatment;

(C) family planning;

(D) the purchased health services program; and

- (E) the indigent health care program;
- (2) from the Texas Department of Health:
- (A) the community and rural health program, including colonias;
- (B) the disease prevention program;
- (C) vital statistics activity;
- (D) milk and dairy activity;
- (E) food and drug activity;
- (F) shellfish sanitation activity;
- (G) zoonosis control activity;
- (H) cooperative meat inspection activity;
- (I) general sanitation activity;
- (J) maternal and child health activity;
- (K) women, infants, and children activity;
- (L) epilepsy activity;
- (M) chronic disease prevention and control activity;
- (N) primary care activity;
- (O) dental health activity;
- (P) activity of the Texas Diabetes Council;
- (Q) all programs of the San Antonio State Chest Hospital;
- (R) all programs of the South Texas Hospital;
- (S) chronically ill and disabled children activity;
- (T) children's outreach heart activity;
- (U) kidney health care activity; and
- (V) adult hemophilia activity;
- (3) the genetics screening and counseling program of the Texas Department of Mental Health and Mental Retardation; and
- (4) the comprehensive medical rehabilitation activity of the Texas Rehabilitation Commission.
- (b) On September 1, 1993, all obligations of an entity listed in Subsection (a) of this section related to a function, program, or activity transferred under that subsection are transferred to the Health and Human Services Commission.
- (c) On September 1, 1993, all property and records in the custody of an entity listed in Subsection (a) of this section related to a function, program, or activity transferred under that subsection and all funds appropriated by the legislature for the function, program, or activity shall be transferred to the Health and Human Services Commission.
- (d) On September 1, 1993, all employees of an entity listed in Subsection (a) of this section who perform the duties transferred under that subsection become employees of the Health and Human Services Commission, to be assigned duties at the direction of the chair of the commission.
- (e) A rule or form adopted by an entity listed in Subsection (a) of this section that relates to a function, program, or activity transferred under that subsection is a rule or form of the Health and Human Services Commission and remains in effect until altered by the commission. The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this section.
- SECTION 1.06. The transfer of duties from the Texas Department of Health, the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission does not affect or impair any act done or obligation, right, order, license, permit, rule, criterion, standard, or requirement, or investigation begun or penalty accrued or existing under former law, and that law remains in effect for any action concerning such an obligation, right, order, license, permit, rule, criterion, standard,

requirement, or penalty. An action brought or proceeding commenced before the effective date of this article is governed by the law and rules in effect on that date, except that any administrative hearing held on or after September 1, 1993, by an agency whose functions have not yet been transferred shall be held under this article.

SECTION 1.07. TRANSFER OF ENVIRONMENTAL PROTECTION DUTIES TO THE TEXAS WATER COMMISSION. (a) On February 1, 1993, the powers, duties, obligations, functions, and activities of the Texas Board of Health and the Texas Department of Health or the officers of those agencies assigned by the following provisions of law are transferred to the Texas Water Commission:

- (1) Subchapter C, Chapter 341, Health and Safety Code;
- (2) Chapter 361, Health and Safety Code;
- (3) Chapter 363, Health and Safety Code;
- (4) Chapter 365, Health and Safety Code;
- (5) Chapter 366, Health and Safety Code;
- (6) Chapter 367, Health and Safety Code;
- (7) Chapter 401, Health and Safety Code; and
- (8) Chapter 402, Health and Safety Code.

(b) The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this section.

(c) This section does not take effect if the bill creating the Texas Department of the Environment proposed by the 72nd Legislature, 1st Called Session, 1991, becomes law.

SECTION 1.08. TRANSFER OF THE OFFICE OF YOUTH CARE INVESTIGATIONS TO THE HEALTH AND HUMAN SERVICES COMMISSION. On September 1, 1992, all functions, powers, duties, and obligations of the Office of Youth Care Investigations in the office of the attorney general under Subchapter B, Chapter 34, Family Code, and all records of that office relating to the investigations of that office are transferred to the Health and Human Services Commission. A rule, form, or policy relating to that office is a rule, form, or policy of the Health and Human Services Commission on transfer of functions under this section and remains in effect until altered by the commission. The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this section.

SECTION 1.09. TRANSFER OF CERTAIN LONG-TERM CARE ELIGIBILITY FUNCTIONS TO THE TEXAS DEPARTMENT OF HUMAN SERVICES. On September 1, 1993, all functions, powers, duties, and obligations of the Texas Department of Health relating to determining medical eligibility for long-term care services, and all employees who perform these duties and all relevant records are transferred to the Texas Department of Human Services. A rule, form, or policy relating to medical eligibility for long-term care services is a rule, form, or policy of the Department of Human Services on transfer of the functions under this section and remains in effect until altered by the department. The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this section.

SECTION 1.10. REPEALER. Chapters 136 and 137, and Section 22.025, Human Resources Code are repealed.

SECTION 1.11. All duties and responsibilities of the Governor's Council on Health and Human Services shall be transferred to the Health and Human Services Commission established by Article 4413(502), Revised Statutes, as added by Section 1.01 of this Act, including those assigned in:

- (1) Section 102.009, Health and Safety Code;
- (2) Section 104.022, Health and Safety Code;
- (3) Section 104.023, Health and Safety Code; and
- (4) Section 41.027, Human Resources Code.

SECTION 1.12. STATEWIDE NEEDS APPRAISAL PROJECT. The Health and Human Services Commission may implement the Statewide Needs Appraisal Project (SNAP) to obtain county-specific demographic data concerning health and human services needs in the state. If collected, the data shall be made available for use in planning and budgeting for health and human services programs by state agencies. The commission shall coordinate its activities with the appropriate health and human services agencies.

SECTION 1.13. This article takes effect September 1, 1991.

ARTICLE 2. LEGISLATIVE HEALTH AND HUMAN SERVICES BOARD

SECTION 2.01. Title 3, Government Code, is amended by adding Chapter 330 to read as follows:

CHAPTER 330. LEGISLATIVE HEALTH AND HUMAN SERVICES BOARD

Sec. 330.001. LEGISLATIVE HEALTH AND HUMAN SERVICES BOARD. (a) The Legislative Health and Human Services Board is an agency of the legislative branch of state government.

(b) The board is composed of:

- (1) the lieutenant governor;
- (2) the speaker of the house of representatives;
- (3) the chair of the House Public Health Committee;
- (4) the chair of the House Human Services Committee;
- (5) the chair of the Senate Health and Human Services Committee;
- (6) the chair of the House Appropriations Committee;
- (7) the chair of the Senate Finance Committee;
- (8) one state representative appointed by the speaker; and
- (9) two senators appointed by the lieutenant governor.

Sec. 330.002. CHAIR. The lieutenant governor and speaker of the house alternate serving as chair and vice-chair of the board. Each term as chair is for two years concurrent with the fiscal biennium.

Sec. 330.003. QUORUM. A majority of the members of each house constitutes a quorum of the board for the transaction of business.

Sec. 330.004. MEETINGS. The board shall meet at least quarterly and at other times at the call of the chair or at the call of a majority of the members of the board or a majority of the board members of either house.

Sec. 330.005. POWERS AND DUTIES. (a) The board shall oversee and review the implementation of legislative health and human services policy, including fiscal policy, by state agencies that have the statutory duty to implement that policy. The board may require information and reports from state agencies as necessary to carry out its duties.

(b) For purposes of carrying out its duties, the board may administer oaths and issue subpoenas, signed by the chair or vice-chair, to compel the attendance of witnesses and the production of books, records, and documents. A subpoena of the board shall be served by a peace officer in the manner in which district court subpoenas are served. On application of the board, a district court of Travis County shall compel compliance with a subpoena issued by the board in the same manner as for district court subpoenas.

(c) The board shall make recommendations to the legislature concerning needed changes in legislative health and human services policy.

(d) The board may employ staff as necessary, as allowed by legislative appropriation, or may request and use staff provided by the Texas Legislative Council or the Legislative Budget Board to assist in the performance of its duties. Such staff, if any, shall be available to all members of the legislature.

(e) The board may adopt rules as necessary for the governing of its own proceedings.

(f) State agencies shall cooperate with and assist the board at the board's request.

Sec. 330.006. REVIEW OF HEALTH AND HUMAN SERVICES POLICY IMPLEMENTATION. (a) The board shall periodically review the actions or proposed actions of the Health and Human Services Commission for the purpose of ensuring compliance with legislative intent. The board may review the actions or proposed actions of other health and human services agencies.

(b) If the board determines that any action or proposed action of the Health and Human Services Commission conflicts with legislative policy, the board shall submit its comments on the conflict to the commission in writing.

(c) If the board determines that a final action of the Health and Human Services Commission conflicts with the intent of legislative policy, the board may:

(1) request additional information from the commission relating to the intent of the commission's action;

(2) request a joint meeting with the commission to discuss the conflict between the action and legislative policy;

(3) request that the commission reconsider the action; or

(4) notify the governor, lieutenant governor, speaker of the house, and the legislature of the conflict presented.

SECTION 2.02. This article takes effect September 1, 1991.

ARTICLE 3. INTERAGENCY INITIATIVES TO INTEGRATE AND STREAMLINE HEALTH AND HUMAN SERVICE DELIVERY

SECTION 3.01. DEFINITIONS. In this article, "commission" means the Health and Human Services Commission.

SECTION 3.02. GOVERNOR'S AGENDA. (a) The governor shall establish an agenda that addresses needed adjustments in federal legislation, agency rules and regulations, programs, and policies that affect health and human services delivery, client and provider eligibility, administration, and funding.

(b) The governor shall develop and amend the agenda in conjunction and cooperation with federal and state elected officials, state agency staff, and executive directors of state agencies providing health and human services programs.

(c) The agenda must include:

(1) a list of specific issues of federal law or policy identified and ranked by health and human service agencies;

(2) impact statements concerning the needed adjustments to federal law or policy;

(3) a discussion of fiscal matters concerning each ranked issue; and

(4) specific recommendations for changes in federal law or policy.

(d) The governor shall annually amend the agenda and rank agenda items. The agenda shall identify issues of federal law, rules and regulations, or programs of common concern to different state agencies and programs.

SECTION 3.03. INTEGRATED DATA BASE NETWORK. (a) Not later than November 1, 1991, the administrative head of each health and human services agency shall designate a representative to the interagency work group to develop an integrated data base network. The work group shall include a representative of the Texas protection and advocacy agency for people with disabilities as designated by the governor, and of the Department of Information Resources. The representative of the Department of Information Resources shall serve as the chair. The interagency work group must:

(1) assess the options and make recommendations to the commission for adequate protection of confidential client information and records;

(2) assess the options and make recommendations to the commission regarding the technical architecture for a statewide integrated data base network for programs provided by health and human service agencies;

(3) make recommendations to the commission for either the purchase or development of software for use by health and human service agencies in determining client eligibility; and

(4) assist the commission in planning the development of the pilot program required by Section 3.06 of this article.

(b) The interagency work group shall complete all duties required by Subsection (a) of this section and report to the governor and the commission before June 1, 1992.

(c) The interagency work group shall assess the adequacy of existing statutory authority relating to the exchange of client information among state agencies, including a request for an opinion by the attorney general, if necessary. If the work group finds that state statutory authority does not allow health and human service agencies to share client data pertinent to eligibility determination, the work group shall present to the 73rd Legislature a report containing the statutory adjustments necessary to allow those agencies to share pertinent client data.

(d) In this section, "health and human service agency" means the:

- (1) Interagency Council on Early Childhood Intervention Services;
- (2) Texas Department on Aging;
- (3) Texas Commission on Alcohol and Drug Abuse;
- (4) Texas Commission for the Blind;
- (5) Texas Cancer Council;
- (6) Texas Commission for the Deaf and Hearing Impaired;
- (7) Texas Department of Health;
- (8) Texas Department of Human Services;
- (9) Texas Juvenile Probation Commission;
- (10) Texas Department of Mental Health and Mental Retardation;
- (11) Texas Rehabilitation Commission; and
- (12) Texas Youth Commission.

SECTION 3.04. PROPOSALS. Not later than July 1, 1992, the commission, in coordination with the Office of State-Federal Relations, shall submit:

(1) to the Texas congressional delegation a proposal to change federal law and regulations to allow agencies in Texas that provide health and human service programs to share client data that is relevant to determining eligibility for the services requested by the client;

(2) to the United States Department of Health and Human Services and other appropriate federal agencies a proposal for a demonstration project, beginning with a pilot project involving not less than three counties, for the purpose of establishing a statewide client data base and registry for all health and human service agencies in Texas; and

(3) to the appropriate federal agencies any requests for waivers needed to carry out the duties of this article.

SECTION 3.05. EXPANDING CLIENT ELIGIBILITY DETERMINATION PROCESS. (a) The Texas Department of Human Services and the Texas Department of Health shall expand the use of the integrated eligibility screen used by joint projects of those agencies to all possible Texas Department of Health locations by August 31, 1992.

(b) The Texas Department of Human Services shall, where feasible, relocate a staff member with the ability to certify eligibility for financial and medical programs to each office or facility of the Texas Department of Health.

(c) The commission shall coordinate the expansion and use of the screening instrument to other agencies on a timetable determined by the commission.

SECTION 3.06. CLIENT ACCESS PILOT PROGRAMS. (a) The commission shall, not later than March 1, 1992, select at least one metropolitan, rural, and medium population county to demonstrate the operation of a client

access package. The commission shall direct specified agencies to develop and implement the client access package by September 1, 1992, including:

- (1) co-location of offices to facilitate client access;
- (2) a centralized client intake and agency worker scheduling system;
- (3) a computer-based integrated eligibility determination system;
- (4) a coordinated information and referral system of all available

services; and

(5) adequate provisions for addressing architectural, communications, programmatic, and transportation barriers.

(b) In implementing the client access pilots, the package shall also include a countywide client data base and registry system if the study required by Section 21, S.B. 379, Acts of the 72nd Legislature, Regular Session, 1991, and the interagency work group under Section 3.03 of this article determine that implementation of the system is feasible.

(c) The commission shall report to the 73rd Legislature and the governor by January 31, 1993, the status of the client access pilots with recommendations for implementation of the client access package statewide. The report shall also include information relating to the estimate of the cost of continuing the pilot programs required by this section and the estimate of the cost of statewide implementation of the client access package.

SECTION 3.07. MERGER OF OFFICES AND FACILITIES. (a) The commission shall direct the administrative heads of the health and human service agencies to review the agencies' current office and facility arrangements and study the feasibility of merging offices or facilities located in the same geographic area and to report back to the commission not later than September 1, 1992.

(b) In this section, "health and human service agencies" includes the:

- (1) Interagency Council on Early Childhood Intervention Services;
- (2) Texas Department on Aging;
- (3) Texas Commission on Alcohol and Drug Abuse;
- (4) Texas Commission for the Blind;
- (5) Texas Cancer Council;
- (6) Texas Commission for the Deaf and Hearing Impaired;
- (7) Texas Department of Health;
- (8) Texas Department of Human Services;
- (9) Texas Juvenile Probation Commission;
- (10) Texas Department of Mental Health and Mental Retardation;
- (11) Texas Rehabilitation Commission;
- (12) Texas Youth Commission; and
- (13) Children's Trust Fund of Texas Council.

SECTION 3.08. AMENDMENT. Article 5, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 5.341 to read as follows:

Sec. 5.341. ACQUISITION AND CONSTRUCTION OF BUILDINGS FOR HEALTH AND HUMAN SERVICE AGENCIES. (a) The commission may not acquire or approve construction of a building, including a building whose acquisition or construction is financed under the Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), to service the needs of a single health and human service agency unless the agency can provide a reason to the commission for not sharing space in the building with one or more other health and human service agencies.

(b) In this section, "health and human service agency" means the:

- (1) Interagency Council on Early Childhood Intervention Services;
- (2) Texas Department on Aging;
- (3) Texas Commission on Alcohol and Drug Abuse;

- (4) Texas Commission for the Blind;
- (5) Texas Cancer Council;
- (6) Texas Commission for the Deaf and Hearing Impaired;
- (7) Texas Department of Health;
- (8) Texas Department of Human Services;
- (9) Texas Juvenile Probation Commission;
- (10) Texas Department of Mental Health and Mental Retardation;
- (11) Texas Rehabilitation Commission;
- (12) Texas Youth Commission; and
- (13) Children's Trust Fund of Texas Council.

SECTION 3.09. AMENDMENT. Article 6, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 6.031 to read as follows:

Sec. 6.031. LEASING SPACE FOR HEALTH AND HUMAN SERVICE AGENCIES. (a) The commission may not lease office space to service the needs of a single health and human service agency unless the agency can provide the commission with a reason for not sharing the office space with one or more health and human service agencies.

(b) In this section, "health and human service agency" means the:

- (1) Interagency Council on Early Childhood Intervention Services;
- (2) Texas Department on Aging;
- (3) Texas Commission on Alcohol and Drug Abuse;
- (4) Texas Commission for the Blind;
- (5) Texas Cancer Council;
- (6) Texas Commission for the Deaf and Hearing Impaired;
- (7) Texas Department of Health;
- (8) Texas Department of Human Services;
- (9) Texas Juvenile Probation Commission;
- (10) Texas Department of Mental Health and Mental Retardation;
- (11) Texas Rehabilitation Commission;
- (12) Texas Youth Commission; and
- (13) Children's Trust Fund of Texas Council.

ARTICLE 4. MISCELLANEOUS PROVISIONS

SECTION 4.01. Section 14.061, Family Code, is amended to read as follows:

Sec. 14.061. HEALTH INSURANCE. (a) In any suit affecting the parent-child relationship or reciprocal child support action under Chapter 21 of this code, a court shall order that health insurance be provided for the child. The court shall consider the cost and quality of health insurance coverage available to the parties and shall give priority to health insurance coverage supplied by an employer of one of the parties.

(b) In determining the manner in which health insurance for the child is to be provided, the court shall consider the following factors:

(1) if health insurance is available for the child through [at] the obligor's [place-of] employment or membership in a union, trade association, or other organization, the court may order the obligor to include the child in the obligor's health insurance; [or]

(2) if health insurance is not available for the child through [at] the obligor's [place-of] employment or membership in a union, trade association, or other organization, but is available for the child through [at] the obligee's [place-of] employment or membership in a union, trade association, or other organization, the court may order the obligee to provide health insurance for the child and in addition may order the obligor to reimburse the obligee for the actual cost of the health insurance for the child; or

(3) if health insurance is not available for the child through [at] either the obligor's or obligee's [place of] employment or membership in a union, trade association, or other organization, the court may order the obligor to provide health insurance for the child to the extent that the insurance is available for the child from another source and the obligor is financially able to provide it.

(c) Any amount that an obligor is required to pay for health insurance for the child under this section is in addition to the amount that the obligor is required to pay for child support under the guidelines for child support and is a child support obligation and may be enforced as a child support obligation.

(d) In this section, "health insurance" means a group policy or contract, including a group contract issued by a company subject to Chapter 20, Insurance Code, or the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), that provides insurance for hospital, surgical, or medical expenses incurred as a result of an accident or sickness or for dental expenses.

(e) Not later than the 30th day after the date the obligor receives notice of the order, the obligor shall provide to the obligee, local domestic relations office, or the attorney general, as specified in the order, the following information:

- (1) the social security number of the obligor;
- (2) the name and address of the obligor's employer;
- (3) a statement of whether the obligor's employer is self-insured or has health insurance available to the obligor;
- (4) proof that health insurance has been provided for the child;
- (5) the name of the health insurance carrier, the policy number, a copy of the policy, a schedule of benefits, a health insurance membership card, claim forms, and any other information necessary to submit a claim; and
- (6) if the obligor's employer is self-insured, a copy of the schedule of benefits, a membership card, claim forms, and any other information necessary to submit a claim.

(f) In addition to the information required under Subsection (e) of this section, the obligor shall provide the obligee, local domestic relations office, or attorney general, as specified in the order, with any additional information regarding health insurance that becomes available to the obligor not later than the 15th day after the date the obligor receives the information.

(g) The obligee, local domestic relations office, or attorney general, as specified in the order, may send a certified copy of the court order requiring the obligor to provide health insurance coverage for the child to the obligor's employer by certified mail, return receipt requested, at any time after the date the court enters the order. The order is binding on the employer on receipt.

(h) On receipt of the court order, the obligor's employer shall immediately enroll the child in a health insurance plan available to the obligor. If the employer is not able to immediately enroll the child, the employer shall enroll the child at the next available enrollment period. If dependent coverage is not available to the employee through the employer's health insurance plan, the employer shall only be responsible for providing notice of this fact as provided by Subsection (i) of this section and is not responsible or otherwise liable for providing such coverage.

(i) An employer who has received an order under this section shall provide to the obligee, local domestic relations office, or the attorney general, as specified in the order, the following information not later than the 30th day after the date the employer receives the court order:

- (1) a statement that the child has been enrolled in a health insurance plan;
- (2) a statement that the child will be enrolled in a health insurance plan at the next available enrollment period and the expected date of the enrollment period; or

(3) a statement that explains why the child cannot be enrolled in a health insurance plan.

(j) If the obligor ceases to be employed by the employer or if the health insurance coverage for the child lapses or terminates, the obligor shall notify the obligee, the local domestic relations office, or the attorney general, as specified in the order, not later than the 15th day after the date of the termination of the employment relationship or the termination of the coverage.

(k) Nothing in this section shall be construed to require a health maintenance organization to provide coverage to a child who resides outside the geographic service area.

SECTION 4.02. (a) Section 16.09, Family Code, is amended to read as follows:

Sec. 16.09. EFFECT OF ADOPTION DECREE. (a) On entry of a decree of adoption, the parent-child relationship exists between the adopted child and the adoptive parents as if the child were born to the adoptive parents during marriage.

(b) The adoptive parents and the adopted child, after the child is an adult, are entitled to receive copies of the records which have been edited to protect the identity of the biological parents and any other person whose identity is confidential and other information relating to the history of the child maintained by the department, authorized agency, person, or entity placing the child for adoption.

(c) It shall be the duty of the person or entity placing the child for adoption to edit the records and information to protect the identity of the biological parents and any other person whose identity is confidential.

(d) [(b)] An adopted child is entitled to inherit from and through the child's adoptive parents as though the child were the natural child of the parents.

(e) [(c)] The terms "child," "descendant," "issue," and other terms indicating the relationship of parent and child include an adopted child unless the context or express language clearly indicates otherwise.

(f) [(d)] Nothing in this chapter shall preclude or affect the rights of a biologic or adoptive maternal or paternal grandparent to reasonable access under Sections 14.03(e), (f), and (g) of this code.

SECTION 4.03. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.041 to read as follows:

Sec. 32.041. MEDICAID MANAGED CARE DEMONSTRATION PROJECT. (a) Beginning September 1, 1991, the Department of Human Services in consultation with the Medicaid analysis and cost control unit of the Legislative Budget Board shall initiate the planning for a Medicaid managed care demonstration project.

(b) The department shall request necessary waivers and approvals from the federal Health Care Financing Administration (HCFA) and other appropriate entities that will enable the state to begin implementation of the demonstration program not later than January 1, 1993.

(c) On or before January 1, 1995, the department shall evaluate the demonstration programs using specifications developed by the federal Health Care Financing Administration.

(d) If the results of the evaluation indicate that the program is cost-effective, the department shall incorporate a request for funding for the continuation or expansion of the managed care approach in its Medicaid program in the department's budget request for the 1996-1997 biennium.

SECTION 4.04. (a) The TDMHMR Facility Review Task Force is established. The task force is composed of five members appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the task force, a person may not have a financial interest in a corporation, organization, or association that provides services to persons with mental retardation under a

contract with the Texas Department of Mental Health and Mental Retardation, a local mental retardation authority, or a community center.

(b) The governor shall appoint the members of the task force not later than December 1, 1991, and shall designate a member to serve as the presiding officer of the task force. Members serve for terms beginning December 1, 1991, and ending on the date this section expires.

(c) Members of the task force receive no compensation but are entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act. The governor, the Legislative Budget Board, and the comptroller shall provide staff support and other assistance to the task force as necessary to discharge the task force's duties.

(d) The task force shall assess the status of each facility of the Texas Department of Mental Health and Mental Retardation using the following criteria:

- (1) the cost-efficiency of the facility in relation to other facilities;
- (2) the opportunity for developing an alternate use for the facility;
- (3) the availability of community resources to serve the facility's residents;
- (4) the range and quality of services delivered at the facility;
- (5) the conclusions contained in the report prepared under Subsection (c) of this section; and
- (6) any other factor the task force determines to be relevant to its duties.

(e) The task force and the comptroller, employing the comptroller's performance audit personnel, shall prepare a report comparing the total costs of providing residential services to persons with mental retardation in a state school setting to the total costs of providing that care in a community setting. The task force shall include a copy of the report with its report and findings under Subsection (i) of this section.

(f) On the basis of the assessment made under Subsection (d) of this section, the task force may recommend the expansion, closure, downsizing, or consolidation of one or more facilities of the Texas Department of Mental Health and Mental Retardation. If the task force recommends the expansion, closure, downsizing, or consolidation of a facility, the task force shall determine:

- (1) the impact of that action on the residents and their families, the employees of affected facilities, and the receiving facilities;
- (2) the economic effects of that action on the facility's community;
- (3) possible alternative uses for a facility, if closed, downsized, or consolidated; and
- (4) a specific schedule for implementing the task force's recommendations.

(g) In implementing a recommendation of the task force, the Texas Department of Mental Health and Mental Retardation shall provide for the orderly transition and integration of any clients affected by the expansion, closure, downsizing, or consolidation of one or more facilities. The department shall provide continued appropriate and adequate care.

(h) The task force shall evaluate the experiences of other states that have closed or consolidated similar facilities to aid the task force in making its determinations.

(i) The task force shall report its findings and any recommendations to the governor and the legislature not later than December 1, 1992.

(j) The Texas Department of Mental Health and Mental Retardation may not implement a recommendation of the task force without specific subsequent authorization by law.

(k) This section expires September 1, 1993.

SECTION 4.05. Title 70, Revised Statutes, is amended by adding Article 4413(701) to read as follows:

Art. 4413(701). HEALTH AND HUMAN SERVICES
TRANSPORTATION AND PLANNING OFFICE

Sec. 1. OFFICE. The Health and Human Services Transportation and Planning Office is in the governor's office.

Sec. 2. POWERS AND DUTIES. The Health and Human Services Transportation and Planning Office shall:

- (1) collect data on health and human services client transportation needs, services, and expenditures;
- (2) create a statewide coordination plan regarding a system of transportation for clients of health and human services agencies including the designation of locally based transportation coordinators;
- (3) establish standards of reporting and accounting methods for all agencies providing health and human services client transportation;
- (4) maximize federal funds for client transportation through the use of available state funds for matching purposes and the possible use of oil overcharge money and planning funds available through the federal Department of Transportation;
- (5) evaluate the effectiveness of pooling client transportation resources for purposes of capital acquisition and the joint purchase of liability insurance;
- (6) assist state agencies in coordinating transportation resources;
- (7) ensure coordination between the Health and Human Services Transportation and Planning Office and the State Department of Highways and Public Transportation with regard to the use of funds received by the State Department of Highways and Public Transportation under 49 U.S.C. Section 1612(b)(2) (Supp. I 1991);
- (8) examine the feasibility of consolidating all funding for health and human services client transportation and creating a transportation system through which clients of any state or local agency or program could be matched with the most cost-effective and appropriate transportation services for their needs; and
- (9) evaluate the use of existing computer software for use at the local level in client transportation services.

Sec. 3. OFFICE STAFF. The governor shall employ staff needed to carry out the duties of the office.

SECTION 4.06. Chapter 85, Health and Safety Code, as added by Section 36, Chapter 14, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PREVENTION OF TRANSMISSION OF HIV
AND HEPATITIS B VIRUS BY INFECTED HEALTH CARE WORKERS

Sec. 85.201. POLICY. It is the policy of this state that:

- (1) each health care worker who performs exposure-prone procedures should know the worker's HIV antibody status;
- (2) each health care worker who performs exposure-prone procedures and who does not have serological evidence of immunity to hepatitis B virus from vaccination or from previous infection should know the worker's HBsAg status and, if that is positive, should also know the worker's HBeAg status; and
- (3) any testing for HIV antibody status comply with Subchapters C, D, and F, Chapter 81.

Sec. 85.202. DEFINITIONS. In this subchapter:

- (1) "Exposure-prone procedure" means a specific invasive procedure that poses a direct and significant risk of transmission of HIV or hepatitis B virus, as designated by board rule.
- (2) "Health care worker" means a person who furnishes health care services in direct patient care situations under a license, certificate, or registration

issued by this state or a person providing direct patient care in the course of a training or educational program.

(3) "Invasive procedure" means a surgical entry into tissues, cavities, or organs or repair of major traumatic injuries associated with any of the following:

(A) an operating or delivery room, emergency department, or outpatient setting, including a physician's or dentist's office;

(B) cardiac catheterization or angiographic procedures;

(C) a vaginal or cesarean delivery or other invasive obstetric procedure during which bleeding may occur; or

(D) the manipulation, cutting, or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists.

(4) "Universal precautions" means procedures for disinfection and sterilization of medical devices and the appropriate use of infection control, including hand washing, the use of protective barriers, and the use and disposal of needles and other sharp instruments as those procedures are defined by the Centers for Disease Control of the United States Public Health Service.

Sec. 85.203. DESIGNATION OF ESTABLISH PROCEDURES. The board by rule shall designate specific invasive procedures that pose a direct and significant risk of transmission of HIV or hepatitis B virus as exposure-prone procedures. The board may establish an advisory committee to assist with this designation.

Sec. 85.204. USE OF UNIVERSAL PRECAUTIONS. (a) Each health care worker shall adhere to universal precautions.

(b) A health care worker with executive lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care equipment and devices used in performing invasive procedures.

(c) All institutions of higher education and professional and vocational schools training health care workers shall provide instruction on universal precautions.

(d) Health care institutions shall establish procedures for monitoring compliance with universal precautions.

Sec. 85.205. PERFORMANCE OF ESTABLISH PROCEDURE BY INFECTED HEALTH CARE WORKER. (a) Except as provided by Subsections (b) and (c), a health care worker who is infected with HIV or who is infected with hepatitis B virus and has a positive HBsAg status may not perform an exposure-prone procedure.

(b) A health care worker may consult with a peer assistance program for that worker's profession established under Chapter 467 or the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) to request a determination of the circumstances, if any, under which the worker may perform exposure-prone procedures.

(c) A health care worker receiving a determination as provided by Subsection (b) may perform exposure-prone procedures consistent with the findings of the peer assistance program.

(d) In making a determination under Subsection (b), the peer assistance program shall consult with the department.

Sec. 85.206. NOTICE TO PATIENT. A health care worker who is authorized to perform exposure-prone procedures under Section 85.205 shall notify a patient of the health care worker's seropositive status and obtain the patient's consent before performing an exposure-prone procedure. Nothing in this section requires patient notification of the health care worker's seropositive status prior to performing a procedure not identified as exposure-prone.

Sec. 85.207. MODIFIED PRACTICE BY INFECTED HEALTH CARE WORKER. (a) To promote the continued use of the talents, knowledge, and skills of a health care worker whose practice is modified because of the worker's HIV or hepatitis B virus infection status, the worker should:

(1) be provided opportunities to continue patient care activities, if practicable; and

(2) receive career counseling and job retraining.

(b) A health care worker whose practice is modified because of hepatitis B virus infection may request periodic redeterminations by the worker's peer assistance program under Section 85.205 of any change in the worker's HBeAg status due to resolution of infection or as a result of treatment.

Sec. 85.208. DISCIPLINARY PROCEDURES. A health care worker who fails to comply with this subchapter is subject to disciplinary procedures by the appropriate licensing entity.

Sec. 85.209. RETENTION OF LICENSE; PERMITTED ACTS. This subchapter does not:

(1) require the revocation of the license, registration, or certification of a health care worker who is infected with HIV or hepatitis B virus;

(2) prohibit a health care worker who is infected with HIV or hepatitis B virus and who adheres to universal precautions from:

(A) performing procedures not identified as exposure-prone; or

(B) providing health care services in emergency situations; or

(3) prohibit a health care worker who is infected with HIV and who adheres to universal precautions from providing health care services, including exposure-prone procedures, to persons who are infected with HIV.

SECTION 4.07. Section 102.004, Health and Safety Code, is amended to read as follows:

Sec. 102.004. COMPOSITION OF COUNCIL. The council is composed of:

(1) one member of the house of representatives, appointed by the speaker of the house of representatives;

(2) one member of the senate, appointed by the lieutenant governor;

(3) the chairman of the Texas Board of Human Services or a representative appointed by the chairman;

(4) the chairman of the board or a representative appointed by the chairman;

(5) one physician active in the treatment of cancer, appointed by the governor;

(6) one physician active in the treatment of cancer, appointed by the lieutenant governor;

(7) one physician active in the treatment of cancer, appointed by the speaker of the house of representatives;

(8) one representative of a voluntary health organization interested in cancer, appointed by the governor;

(9) one representative of a voluntary health organization interested in cancer, appointed by the lieutenant governor;

(10) one representative of a voluntary health organization interested in cancer, appointed by the speaker of the house of representatives;

(11) one representative of a public or private hospital that treats a significant number of cancer patients, appointed by the governor;

(12) one representative of a public or private hospital that treats a significant number of cancer patients, appointed by the lieutenant governor;

(13) one representative of a public or private hospital that treats a significant number of cancer patients, appointed by the speaker of the house of representatives;

(14) one member of the public, appointed by the governor;

(15) one member of the public, appointed by the lieutenant governor;
and
(16) one member of the public, appointed by the speaker of the house of representatives [two physicians active in the treatment of cancer, appointed by the speaker of the house of representatives;
(6) two physicians active in the treatment of cancer, appointed by the lieutenant governor;
(7) a representative of a voluntary health organization interested in cancer, appointed by the speaker of the house of representatives;
(8) a representative of a voluntary health organization interested in cancer, appointed by the lieutenant governor;
(9) a representative of a public or private hospital that treats a significant number of cancer patients, appointed by the speaker of the house of representatives;
(10) a representative of a public or private hospital that treats a significant number of cancer patients, appointed by the lieutenant governor;
(11) two members of the public, appointed by the speaker of the house of representatives; and
(12) two members of the public, appointed by the lieutenant governor].

SECTION 4.08. Chapter 102, Health and Safety Code, is amended by adding Section 102.0041 to read as follows:

Sec. 102.0041. QUALIFICATIONS OF COUNCIL. (a) A person is not eligible for appointment as a member of the council if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the council;
or

(2) uses or receives a substantial amount of tangible goods, services, or funds from the council, other than compensation or reimbursement authorized by law for council membership, attendance, or expenses.

(b) A person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation in or on behalf of a profession related to the operation of the council may not serve as a member.

(c) Appointments to the council shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(d) It is a ground for removal from the council if the member:
(1) does not have at the time of appointment the qualifications required in this section for appointment to the council;

(2) does not maintain during the member's service on the council the qualifications required by this section for appointment to the council;

(3) violates a prohibition established by this section;
(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled meetings of the council that the member is eligible to attend during each calendar year or is absent from more than two consecutive regularly scheduled council meetings that the member is eligible to attend, except when the absence is excused by a majority vote of the council.

(e) If the presiding officer of the council has knowledge that a potential ground for removal of a member of the council exists, the presiding officer shall notify the executive director and the appointing authority.

SECTION 4.09. Section 102.006, Health and Safety Code, is amended to read as follows:

Sec. 102.006. OFFICERS. The ~~governor~~ ~~[speaker of the house of representatives]~~ shall appoint one member as chairman. ~~[The lieutenant governor shall appoint one member as vice chairman.]~~

SECTION 4.10. Subsection (c), Section 191.025, Health and Safety Code, is amended to read as follows:

(c) A local registrar shall supply forms of certificates to persons who need them. The board shall establish and promulgate rules for strict accountability of birth certificates to prevent birth certificate fraud.

SECTION 4.11. Section 195.003, Health and Safety Code, is amended to read as follows:

Sec. 195.003. FALSE RECORDS. (a) A person commits an offense if the person intentionally or knowingly makes a false statement or directs another person to make a false statement in:

- (1) a certificate, record, or report required under this title;
- (2) an application for an amendment of a certificate, record, or report required under this title;
- (3) an application for a delayed birth certificate or delayed death certificate; or
- (4) an application for a certified copy of a vital record.

(b) A person commits an offense if the person intentionally or knowingly supplies false information, or intentionally or knowingly creates a false record, or directs another person to supply false information or create a false record, for use in the preparation of a certificate, record, report, or amendment under this title.

(c) A person commits an offense if the person, without lawful authority and with intent to deceive, makes, counterfeits, alters, amends, or mutilates, or directs another person to make, counterfeit, alter, amend, or mutilate:

- (1) a certificate, record, or report required under this title; or
- (2) a certified copy of a certificate, record, or report required under this title.

(d) A person commits an offense if the person, for purposes of deception, intentionally or knowingly obtains, possesses, uses, sells, or furnishes, or attempts or directs another person to attempt to obtain, possess, use, sell, or furnish a certificate, record, or report required under this title, or a certified copy of a certificate, record, or report required under this title, if the document:

- (1) is made, counterfeited, altered, amended, or mutilated without lawful authority and with intent to deceive;
- (2) is false in whole or in part; or
- (3) relates to the birth of another individual.

(e) An offense under this section is a felony of the third degree.

(f) In this section, "person" means an individual, corporation, or association.

(g) If a person is convicted of an offense under this section, the court shall order as a condition of probation that the person cannot obtain a certificate, record, or report to which this section applies or practice midwifery, and the Texas Department of Criminal Justice shall require as a condition of parole that the person cannot obtain a certificate, record, or report to which this section applies or practice midwifery.

SECTION 4.12. Subdivision (3), Chapter 467.001, Health and Safety Code, is amended to read as follows:

(3) "Impaired professional" means an individual whose ability to perform a professional service is impaired by chemical dependency on drugs or alcohol or by mental illness or by infection with HIV or hepatitis B virus with a positive HBeAg status as described in Subchapter I, Chapter 85.

SECTION 4.13. Subsection (a), Chapter 73, Section 73.004, Human Resources Code, is amended to read as follows:

Sec. 73.004. ADVISORY COMMITTEE. (a) The governor [council] shall appoint [establish] an advisory committee [composed of parents, professionals, and advocacy groups. The council shall appoint as many members as it considers necessary] to assist the council in the performance of its duties. The council shall establish the size and composition of the committee by rule, consistent with federal regulations and state rules. The governor or the council may also appoint ex officio members to serve for specific purposes to assist the council in the performance of its duties.

SECTION 4.14. Subsection (d), Section 573.012, Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(d) The magistrate shall issue to an on-duty peace officer a warrant for the person's immediate apprehension if the magistrate finds that each criterion under Subsection (b) is satisfied.

SECTION 4.15. Subsection (a), Section 574.045, Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The court may authorize the transportation of a patient to the designated mental health facility by:

(1) a relative [or other responsible person] who has a proper interest in the patient's welfare;

(2) the facility administrator of the designated mental health facility, if the administrator notifies the court that facility personnel are available to transport the patient; or

(3) the sheriff or constable, if no person is available under Subdivision (1) or (2).

SECTION 4.16. Chapter 161, Health & Safety Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ILLEGAL REMUNERATION

Sec. 161.091. PROHIBITION ON ILLEGAL REMUNERATION. (a) A person licensed, certified, or registered by a health care regulatory agency of this state commits an offense if the person intentionally or knowingly offers to pay or agrees to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage.

(b) This section shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of a professional service in a superior manner and that is not readily subject to verification.

(c) Except as provided by this section, an offense under this section is a Class A misdemeanor. If it is shown in the trial of a violation of this section that the person has previously been convicted of a violation of this section, on conviction the person shall be punished for a felony of the third degree.

(d) The appropriate health care regulatory agency may institute an action to enjoin a violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The regulatory agency shall be represented by the attorney general.

SECTION 4.17. Section 17, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), as amended by S.B. 346, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 17. PROHIBITED ACTS. A midwife may not:

(1) except for prophylaxis approved by the board to prevent ophthalmia neonatorum, administer a prescription drug to a client except under the supervision of a licensed physician in accordance with the laws of this state;

(2) use forceps or surgical instruments for any procedure other than cutting the umbilical cord or providing emergency first aid during delivery;
 (3) remove placenta by invasive techniques;
 (4) advance or retard labor or delivery by using medicines or mechanical devices;
 (5) use in connection with the midwife's name a title, abbreviation or any designation tending to imply that the midwife is a "registered" or "certified" midwife as opposed to one who is identified in compliance with this Act;
 (6) assist at childbirth other than a normal childbirth except in an emergency situation that poses an immediate threat to the life of the mother or newborn;

(7) advertise or otherwise represent that the midwife is a physician or a graduate of a medical school unless the midwife is licensed to practice medicine by the Texas State Board of Medical Examiners; [or]

(8) except as authorized by rules adopted by the Board of Nurse Examiners and the Board of Vocational Nurse Examiners, use in combination with the term "midwife," the term "nurse" or other title, initials, or other designation that implies that the midwife is licensed as a registered nurse or licensed vocational nurse; or

(9) make a false statement or false record on a birth certificate pursuant to Section 195.003, Health and Safety Code.

SECTION 4.18. Section 18, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), as amended by S.B. 346, Acts of the 72nd Legislature, Regular Session, 1991, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided in Subsection (c), an [An] offense under this section is a Class C misdemeanor.

(c) A midwife commits an offense if the midwife intentionally or knowingly falsifies documents pursuant to Section 195.003, Health and Safety Code. An offense under this subsection is a felony of the third degree.

SECTION 4.19. (a) Section 32.021, Human Resources Code, is amended by adding Subsections (d) through (g) to read as follows:

(d) The department may include in its contracts for the delivery of medical assistance by nursing facilities provisions for monetary penalties to be assessed for contract violations threatening the health or safety of nursing facility residents, provided that the department:

(1) establish a penalties and sanctions advisory committee of consumer advocates and long-term care providers to help develop and monitor an appropriate system for assessing penalties; and

(2) develop rules in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) Rules governing the application of penalties shall include the following:

(1) specific and objective criteria which describe the scope and severity of a contract violation which results in a recommendation for each specific penalty. Penalties must be appropriate to the violation and the most severe financial penalties must be reserved for situations which create an immediate and serious threat to the health and safety of residents; "immediate and serious threat" means a situation in which there is a high probability that serious harm or injury to patients could occur at any time or already has occurred and may well occur again if patients are not protected effectively from the harm or if the threat is not removed;

(2) a system to ensure standard and consistent application of penalties among surveyors and different areas of the state;

(3) due process for nursing facilities providers, including an appeals procedure consistent with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); and

(4) per diem and/or minimum penalties. The department may by rule prescribe a minimum penalty period; however, once a facility gives the department notice that deficiencies have been corrected, if surveyors are unable to revisit the facility within five days and the deficiencies are later shown to be corrected, the per diem penalties cease as of the day the facility gave notice to the department or on the last day of the minimum penalty period established by the department, whichever is later.

(f) To encourage facilities to provide the best possible care, the department shall develop an incentive program to recognize facilities providing the highest quality care to Medicaid residents.

(g) Funds collected as a result of the imposition of penalties shall be applied to the protection of the health or property of residents of nursing facilities, including the cost of relocation of residents to other facilities and maintenance or operation of a facility pending correction of deficiencies or closure, or to incentive programs which recognize the highest quality care to residents who are entitled to Medicaid.

(b) Subsection (a), Section 32.034, Human Resources Code, is amended to read as follows:

(a) When the department intends to cancel its contract or impose monetary penalties under a contract with a person providing medical assistance, the department shall give reasonable notice and an opportunity for hearing if one is requested. The department shall adopt rules consistent with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to implement this section, and hearings under this section are contested cases under that act.

SECTION 4.20. (a) This article takes effect September 1, 1991.

(b) Section 4.01 of this article applies only to an order entered in a suit affecting the parent-child relationship or reciprocal child support action on or after the effective date of this article. An order entered before the effective date of this article is governed by the law in effect on the date the order was entered and that law is continued in effect for that purpose.

(c) Section 4.02 of this article applies to adoptions consummated before, on, or after the effective date of this article.

ARTICLE 5. BONDS FOR FACILITIES

SECTION 5.01. Section 4, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) The authority may issue up to \$45 million in general obligation bonds, in addition to the amounts authorized by Subsection (a) of this section, and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping mental health or mental retardation facilities, including community-based facilities, or for major repair or renovation of mental health or mental retardation facilities. The bond proceeds may be used to refinance an existing obligation for a purpose described by this subsection. The authority may issue general obligation bonds authorized under this section to refund revenue bonds issued under this Act.

SECTION 5.02. This article takes effect on the date on which the constitutional amendment proposed by ___J.R. No. ___, 72nd Legislature, 1st Called Session, 1991, takes effect. If that amendment is not approved by the voters, this article has no effect.

ARTICLE 6. EMERGENCY PROVISIONS

SECTION 6.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several

days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The committee amendment was read.

Senator Brooks offered the following committee amendment to Committee Amendment No. 1:

Committee Amendment No. 2

Amend Committee Amendment No. 1 to H.B. 7 as follows:

(1) On page 45, beginning after line 16 by adding the following SECTIONS 4.05 through 4.07 and renumbering existing and subsequent sections accordingly:

SECTION 4.05. The subchapter heading for Subchapter D, Chapter 14, Family Code, is amended to read as follows:

SUBCHAPTER D. EXPEDITED PROCESS TO ESTABLISH OR ENFORCE SUPPORT OBLIGATIONS; COOPERATION WITH OTHER STATES

IN TITLE IV-D CASES

SECTION 4.06. Section 14.80, Family Code, is amended by adding Subdivisions (3)-(6) to read as follows:

(3) "Child support agency" means:

(A) the attorney general;

(B) a county or district attorney or any other county officer or agency that executes a cooperative agreement with the attorney general to provide child support services under Chapter 76, Human Resources Code, and Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.); or

(C) domestic relations office.

(4) "Child support services" means administrative or court actions to:

(A) establish or enforce child support or medical support obligations;

(B) locate absent parents; or

(C) cooperate with other states in these actions as required under under Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.) or Chapter 76, Human Resources Code.

(5) "Medical support" means periodic payments or a lump-sum payment made under a court order to cover medical expenses, including health insurance coverage, incurred for the benefit of a child.

(6) "State" includes:

(A) a state, territory, or possession of the United States;

(B) the District of Columbia;

(C) the commonwealth of Puerto Rico; or

(D) a foreign jurisdiction that seeks assistance from this state in providing child support services.

SECTION 4.07. Subchapter D, Chapter 14, Family Code, is amended by adding Sections 14.871-14.876 to read as follows:

Sec. 14.871. ADMINISTRATIVE SUBPOENA. (a) In an action under this subchapter, a child support agency may issue an administrative subpoena that requires a person to provide to the agency information necessary for the provision of child support services by the agency.

(b) A child support agency is not required to file a request with a county or district court clerk in order to issue an administrative subpoena.

(c) An administrative subpoena under this section may be served by hand delivery, by United States first class mail, or as otherwise authorized by law.

Sec. 14.872. ESTABLISHMENT OF SUPPORT OBLIGATION. If an enforceable court order for support has not been issued by a court, a child support agency may commence an action to establish one or more of the following:

(1) a periodic or lump-sum payment under Section 14.05 of this code to satisfy a parent's support obligation;

(2) a periodic or lump-sum payment of the amount of reimbursement for public assistance required under Section 14.062 of this code; or

(3) an obligation to provide medical support.

Sec. 14.873. ENFORCEMENT OF EXISTING COURT ORDER FOR CHILD SUPPORT. If a court order for child support has been issued by a court, a child support agency may:

(1) commence enforcement proceedings under Subchapter B of this chapter;

(2) commence an action to confirm a child support arrearage and to obtain a judgment for past-due child support payments as provided by Section 14.41 of this code;

(3) petition the court to require a person obligated to support a child to furnish a bond or other security under Section 14.42 of this code;

(4) petition the court to require withholding from earnings under Section 14.43 or Subchapter C of this chapter; or

(5) recover under any reciprocal enforcement or support act or interstate income withholding act.

Sec. 14.874. NEGOTIATION CONFERENCE. (a) In an action under this subchapter for the establishment or enforcement of a child support obligation, a parent, presumed father, or alleged father may request a negotiation conference to attempt to reach an agreement concerning the relief requested in a notice issued under this subchapter.

(b) On receipt of a request for a negotiation conference that includes a completed affidavit of financial resources, a child support agency shall schedule a negotiation conference and shall notify the requestor and any other parties who are required to be served of the date, time, and place of the negotiation conference.

(c) At the negotiation conference the child support agency shall attempt to resolve issues regarding support without the necessity of a court hearing. If an agreement is reached at the negotiation conference, the child support agency shall put the agreement in the form of an agreed court order. The agreed order must contain the parties' waiver of service, waiver of the right to a court hearing, waiver of any subsequent notice requirements, and waiver of the making of a record. If an agreement is not reached at a negotiation conference, a child support agency may commence an action under Title 2 of this code.

Sec. 14.875. COURT TO RENDER ORDER. (a) A child support agency shall file an agreed order resulting from a negotiation conference under this subchapter with the clerk of the court that has continuing jurisdiction under Section 11.05 of this code, or if a court does not have continuing jurisdiction, with the clerk of the court that has jurisdiction under Title 2 of this code.

(b) On receipt of the agreed order, the clerk of the court shall docket the case and shall file the agreed order with the court.

(c) On filing of the agreed order, the court shall, without the necessity of a hearing, render an order that contains the same terms and provisions as the agreed order submitted by the child support agency.

(d) An agreed order that is filed under this section constitutes a sufficient record of the proceedings and, notwithstanding Section 11.14 of this code, the court may not require an additional record.

Sec. 14.876. MOTION TO SET ASIDE AGREED ORDER. (a) Not later than the 30th day after the date on which an order is issued under Section 14.876(c) of this code, a party to the order may file a motion to set aside the agreed order.

(b) The court shall treat a timely filed motion to set aside the order as a motion for new trial.

The amendment was read.

Senator Harris of Tarrant moved to table the amendment.

The motion to table was lost by the following vote: Yeas 12, Nays 18.

Yeas: Brown, Carriker, Dickson, Glasgow, Green, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Rosson, Sibley, Whitmire.

Nays: Armbrister, Barrientos, Bivins, Brooks, Ellis, Haley, Johnson, Krier, Lucio, Moncrief, Montford, Parker, Ratliff, Sims, Tejeda, Truan, Turner, Zaffirini.

Absent-excused: Lyon.

Question recurring on adoption of Committee Amendment No. 2, the committee amendment was adopted by a viva voce vote.

Senator Harris of Tarrant offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 1

Amend Committee Amendment No. 1 to H.B. 7 by deleting Committee Amendment No. 2 beginning on page 25, line 60 of the Committee Printing and ending on page 27, line 43.

The amendment was read.

On motion of Senator Harris of Tarrant and by unanimous consent, the amendment was withdrawn.

Senator Brooks offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 2

Amend Committee Amendment No. 1 to H.B. 7 by adding a new SECTION 4.13 to read as follows and by renumbering the subsequent sections accordingly:

SECTION 4.13. Sec. 467.003 is amended by adding Subsection (e) to read as follows:

(e) Unless otherwise required by law or a licensing or disciplinary authority, a peer assistance program may limit its assistance to professionals who are infected with HIV or hepatitis B virus with a positive HBeAg status as required under Subchapter I, Chapter 85.

BROOKS
MONCRIEF

The amendment was read and was adopted by a viva voce vote.

(President in Chair)

Senator Zaffirini offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 3

Amend Committee Amendment No. 1 to H.B. 7, Section 195.003, FALSE RECORDS, to add a new Subsection (e) as follows and reletter the subsequent subsections:

(e) A person commits an offense if the person intentionally or knowingly fraudulently identifies himself or herself to obtain or return registration forms, certificates, or any other forms required under this title.

ZAFFIRINI
BROOKS
LUCIO

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 4

Amend Committee Amendment No. 1 to **H.B. 7** by inserting a new article, appropriately numbered, to read as follows:

ARTICLE ____. **INSPECTION OF CUSTOM SLAUGHTERHOUSES**

SECTION ____.01. Section 433.006, Health and Safety Code, is amended to read as follows:

Sec. 433.006. EXEMPTIONS [~~PERSONAL—USE~~ **EXEMPTION**]. (a) The provisions of this chapter requiring inspection of the slaughter of animals and the preparation of carcasses, parts of carcasses, meat, and meat food products at establishments conducting those operations do not apply to the slaughtering of animals by a person on the person's own premises, or the preparation and transportation in intrastate commerce of those articles by the person exclusively for use by the person or the person's household, nonpaying guests, or employees. The adulteration and misbranding provisions of this chapter, other than the requirement of an inspection legend, apply to those articles.

(b) This chapter does not apply to the inspection of custom slaughterhouses that slaughter or process animals for the ultimate personal use by the person who requested the slaughter or processing and not for retail or wholesale use by that person.

SECTION ____.02. Subchapter A, Chapter 148, Agriculture Code, is amended by adding Section 148.004 to read as follows:

Sec. 148.004. **INSPECTION OF CUSTOM SLAUGHTERHOUSES.** (a) The Department of Agriculture shall inspect custom slaughterhouses that slaughter or process livestock and other animals for the ultimate personal use by the person requesting the slaughter or processing and not for retail or wholesale use by that person.

(b) The commissioner of agriculture by rule shall adopt standards for the inspection of custom slaughterhouses in order to protect the public health.

(c) The Department of Agriculture may issue a certificate of inspection to a custom slaughterhouse as proof of compliance with this section.

(d) The Department of Agriculture may require a custom slaughterhouse to take any action necessary to comply with standards adopted under this section.

SECTION ____.03. (a) The property and records of the Texas Department of Health that relate to the inspection of custom slaughterhouses described by Section 433.006(b), Health and Safety Code, as added by this Act, are transferred to the Department of Agriculture.

(b) On the transfer under this article of responsibility for inspecting custom slaughterhouses, the rules under which the responsibility was administered immediately before the transfer are continued in effect as rules of the Department of Agriculture until the rules are amended, repealed, or otherwise superseded by the actions of the Department of Agriculture.

(c) On the transfer under this article of the responsibility for inspecting custom slaughterhouses, the unexpended and unobligated appropriations and other funds of the Texas Department of Health that relate to that responsibility are transferred to the Department of Agriculture. The Legislative Budget Board shall determine the amount of appropriations and other funds to be transferred under this subsection.

SECTION ____04. This article takes effect December 1, 1991.

The amendment was read and was adopted by a viva voce vote.

Question recurring on adoption of Committee Amendment No. 1 as amended, the committee amendment as amended was adopted by a viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 7 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 7 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lyon.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

FLOOR PRIVILEGES GRANTED

On motion of Senator Barrientos and by unanimous consent, Floor Privileges were granted to members of his staff during deliberation of C.S.H.B. 78.

COMMITTEE SUBSTITUTE

HOUSE BILL 78 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 78, Relating to abolishing the State Purchasing and General Services Commission and creating the General Services Department; to transferring responsibility for architectural barriers programs from the commission to the Texas Department of Licensing and Regulation; to transferring responsibility for personal property accounting from the commission to the comptroller; to transferring responsibility for telecommunications services from the commission to the Department of Information Resources; to travel regulations for state government; to establishing a Texas Office of Personnel Services; and to the state's acquisition and use of property and services.

The bill was read second time.

(Senator Haley in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 78 as follows:

(1) Insert the following as SECTION 9.071 of the bill (Committee Printing, page 70, between lines 48 and 49):

SECTION 9.071. A privately financed building that was constructed on or after January 1, 1978, but before January 1, 1992, and that was covered under the architectural barriers law in effect immediately before the effective date of this Act (Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), and rules adopted under that law) remains subject to the prior architectural barriers law and rules until the building is substantially renovated, modified, or altered, and the prior law and rules are continued in effect for this purpose. The Texas Department of Licensing and Regulation shall enforce the prior law and rules under this section, and all enforcement mechanisms available to the department in its enforcement of the architectural barriers law and rules are available to the department in its enforcement of the prior law and rules under this section.

(2) In SECTION 9.07(a) of the bill, in the second sentence, strike "May 1, 1992" and substitute "January 1, 1992" (Committee Printing, page 70, line 28).

(3) In SECTION 4.01 of the bill, in proposed Subsection (f) of Section 2 of Article 9102, between "the" and "Uniform" insert "most recent" (Committee Printing, page 27, between lines 35 and 36).

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 78 as follows:

(1) In Section 2.50 of the bill, in Section 14.02(b) of the State Purchasing and General Services Act, in the third sentence, between "exempted services" and "~~[After approval]~~" (Committee Printing, page 20, line 49) insert the following:

The governor's office of budget and planning shall exempt an institution of higher education, as defined by Section 61.003, Education Code, from using some or all of the services provided by the central travel office if the governor's office of budget and planning determines that the exemption would be cost effective or would benefit the state considering the impact on local business or that the central travel office is incapable of providing the exempted services. The office of budget and planning shall revoke an exemption when the exemption is no longer cost effective or the central travel office becomes capable of providing the exempted services.

(2) Amend Section 2.52 of the bill, in Section 14.04 of the State Purchasing and General Services Act (Committee Printing, page 21, lines 31 and 32) by striking "in the State Treasury to the credit of the General Revenue Fund" and substituting "[~~in the State Treasury~~] to the credit of the fund from which the travel expenses were paid [General Revenue Fund]".

BARRIENTOS
TURNER

The amendment was read and was adopted by the following vote: Yeas 22, Nays 8.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Krier, Lucio, Moncrief, Montford, Ratliff, Rosson, Sibley, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Parker, Sims.

Absent-excused: Lyon.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 3

Amend Part 2, SECTION 2.53 of C.S.H.B. 78 by deleting Sec. 15.07 in its entirety and renumbering subsequent sections accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 78 by inserting the following as SECTIONS 2.481 through 2.486 of the bill (Committee Printing, page 20, between lines 12 and 13):

SECTION 2.481. Subsections (a) through (d), Section 13.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Each biennium a state agency subject to this article shall conduct competitive cost reviews of the functions performed by that agency as provided by this article and shall adopt rules to implement this article. If the agency has an internal auditor, the internal auditor shall coordinate the activities of the agency that are required under this article. The agency shall conduct management studies, develop agency in-house cost estimates, and conduct other activities as necessary to implement this article.

(b) In conducting a competitive cost review of the functions performed by a state agency, the agency shall analyze all agency activities, shall identify by November 1 of each year all commercial activities performed by the agency, and shall develop a schedule for the analysis of the commercial activities identified. For each commercial activity identified, the agency shall also at that time quantify in measurable units the amount of the activity performed by the agency and identify the amount of money budgeted for the activity by the agency. The administrative head of the agency shall promptly submit the agency's inventory of commercial activities, including the workload and budget information, together with its analysis schedule to the State Auditor, Legislative Budget Board, Governor's Office of Budget and Planning, Senate Finance Committee, House Appropriations Committee, and commission for review and comment. The agency shall then report its determinations to its governing body and shall submit the schedule to its governing body [for approval] by December 1 of each year for approval.

(c) After approval of the schedule by the governing body, the state agency shall conduct a management study of the agency functions specified in the schedule. The agency shall conduct the study in accordance with instructions issued by the commission. At the minimum, a management study must contain:

- (1) a description of the agency function;
- (2) an analysis of the quality and quantity of the work of the agency in relation to that function; and
- (3) a description of any efficiency initiatives that the agency could implement to perform the function more efficiently.

(d) The agency shall submit the completed management study to the commission for approval. After the commission has approved the study, the agency shall estimate the total cost to perform the function and submit each agency in-house cost estimate to the State Auditor for approval. If the agency has an internal auditor, the agency shall submit its cost estimate to its internal auditor for review before forwarding the cost estimate to the State Auditor.

SECTION 2.482. Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 13.031 to read as follows:

Sec. 13.031. COMPLAINT FROM PRIVATE ENTERPRISE. (a) In this section, "state agency" has the meaning assigned by Section 1.02 of this Act.

(b) A person, including a corporation, that manufactures, processes, sells, leases, distributes, provides, or advertises goods or services for profit, or a duly chartered nonprofit corporation engaged in such activities, may file a written complaint with the executive director of the commission and with the administrative head of a state agency alleging that the state agency has engaged in unfair competition with the person or corporation. The agency shall respond to the complaint and shall furnish the complainant and the commission with a copy of its response not later than the 90th day after the date that the agency receives the complaint.

(c) The commission shall keep a copy of each written complaint and response received under this section on file and available for public inspection for at least two years after the date that it received the complaint or response.

(d) This section does not apply to:

(1) the Texas Department of Criminal Justice; or

(2) an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2.483. Section 13.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.05. DUTIES OF [STATE PURCHASING AND] GENERAL SERVICES COMMISSION. (a) The commission by rule shall issue instructions that govern the conduct of state agency management studies under Section 13.03 of this article.

(b) The commission shall conduct a cost comparison review. In conducting the cost comparison review, the commission shall:

(1) estimate the cost to purchase the service from the private sector. In developing the estimate, the commission may use specific area surveys, state average costs or current bid data;

(2) determine if the quality and quantity of service that could be provided through purchase is at least equal to the quality and quantity of service proposed in the agency management study and in-house cost estimate;

(3) determine the total state cost incurred in providing the service based on the approved agency in-house cost estimate; and

(4) based on estimates of the total cost, compare the total cost to the state to purchase the services with the total state cost of providing the service.

(c) [(b)] After consultation with the agency and State Auditor, the commission shall determine if the total state cost of providing the service exceeds the cost of purchasing the service. If the commission finds that at least the same quality and quantity of service can be purchased at a savings of more than 10 percent, the commission shall notify the chairman of the governing body of the agency of the amount by which the agency's costs exceed the costs of purchasing the service. The commission may request any information from a state agency necessary to accomplish the purpose of this subsection.

(d) The commission shall establish internal controls, when the commission conducts competitive cost reviews of its own commercial activity functions, to separate internally the duties performed by the commission as a state agency subject to this article and the duties performed by the commission for all state agencies subject to this article.

SECTION 2.484. Section 13.07, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.07. SAVINGS FROM EFFICIENCY INITIATIVE. Except for savings allocated to the productivity bonus program [(Article 6252-29, Vernon's Texas Civil Statutes);] and the state employee incentive program (Article 6252-29a

[6252-28], Vernon's Texas Civil Statutes), all savings that result from reduced costs under the efficiency initiative shall be used by the agency for treatment, rehabilitation, or other direct services the agency provides to persons it serves or, when savings result to the commission, for direct services the commission provides to state government.

SECTION 2.485. Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by S.B. 352, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 13.09. APPLICATION. The state agencies subject to this article are:

- (1) the Texas Department of Mental Health and Mental Retardation;
- (2) the Texas Department of Human Services;
- (3) the Texas Department of Corrections;
- (4) the Department of Agriculture;
- (5) the Central Education Agency;
- (6) the Texas Higher Education Coordinating Board; [and]
- (7) the State Department of Highways and Public Transportation; and
- (8) the commission.

SECTION 2.486. Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 13.10 to read as follows:

Sec. 13.10. SUNSET REVIEW OF PROGRAM. (a) The competitive cost review program is subject to Chapter 325, Government Code (Texas Sunset Act), as if the program were a state agency subject to review under that chapter. Unless continued in existence as provided by that chapter, the program is abolished and this article of this Act expires September 1, 1995.

(b) To the extent Chapter 325, Government Code (Texas Sunset Act), imposes a duty on a state agency under review, the commission shall perform the duty as it applies to the competitive cost review program.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 78 as follows:

(1) On page 56, beginning on line 69, delete Subsection (5) and substitute the following:

"(5) "Eligible state employee organization" means a state employee organization with a membership of at least 4,000 state employees continuously for the previous eighteen months, prior to requesting certification from the comptroller, and conducts activities on a statewide basis and that the comptroller has certified under this article. This subsection shall not apply to those organizations set out in Sec. 466.005 (g)."

(2) On page 59, beginning on line 29, strike Sec. 466.005 and substitute the following:

"Sec. 466.005. REQUIRED DUES STRUCTURE. (a) To be certified by the comptroller, a state employee organization must have a current dues structure for state employees in place and operating in this state for a period of at least eighteen months. Any organization requesting certification shall demonstrate that the fee structure proposed from state employees is equal to an average of not less than one-half of the fees for that organization nationwide.

(b) TRANSFER AUTHORIZED. (1) An employee of a state agency may authorize in writing a transfer each pay period from the employee's salary or wage payment for a membership fee in an eligible state employee organization. The

written authorization shall remain in effect until an employee, in writing, authorizes a change therein.

(2) The comptroller by rule shall establish an annual transfer authorization period and shall promulgate rules for transfers by employees to a certified eligible state employee organization.

(c) ELIGIBILITY OF STATE EMPLOYEE ORGANIZATION. (1) An organization not previously certified may submit an application for certification as an eligible state employee organization to the comptroller within 90 days prior to the beginning of the fiscal year.

(2) The comptroller may approve an application under this subsection if a state employee organization demonstrates to the satisfaction of the comptroller that it qualifies as an eligible state employee organization by providing the documentation required by this section and applicable rules adopted by the comptroller.

(d) VOLUNTARY PARTICIPATION. Participation by employees of state agencies in the payroll deduction program authorized by this section is voluntary.

(e) ADMINISTRATIVE FEE. (1) The comptroller shall charge an administrative fee to cover the costs incurred as a result of administering this subsection. Administrative fees shall be paid by each qualifying state employee organization on a pro rata basis to be determined by the comptroller. The comptroller by rule shall determine the most efficient and effective method of collecting such administrative fees. The comptroller shall adopt rules for the administration of this section.

(2) The comptroller shall allocate the administrative fees on a proportional basis to each employing state agency that incurs costs in administering this subsection.

(f) APPLICABILITY OF ARTICLE. Any state employee organization that has a membership of at least 4,000 state employee members of April 1, 1991 shall be certified by the comptroller as an eligible state employee organization. Said organization shall not be required to meet any other eligibility requirements as set out herein for certification.

(g) EFFECTIVE DATE. This subsection takes effect January 1, 1992.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 78 as follows:

1. Delete SECTION 2.19, page 8, lines 66-70, page 9, lines 1-29.
2. Add a new SECTION 2.19 to read as follows:

SECTION 2.19.

(g)(1) As of the effective date of this Act, all of the employees, duties, functions, positions, responsibilities, inventory, property, and other items assigned to the Capitol Security Police Division of the State Purchasing and General Services Commission are transferred to the Texas Department of Public Safety.

(2) All employees of the Capitol Security Police Division of the State Purchasing and General Services Commission are eligible for employment by the Texas Department of Public Safety.

(3) All such persons employed by the Texas Department of Public Safety shall be entitled to have all service with the State Purchasing and General Services Commission recognized for purposes of establishing length of service and accrual of and entitlement to benefits. Such service with the State Purchasing and General Services Commission shall be aggregated with service as employees of the Texas Department of Public Safety. Provided, however, all such persons employed

by the Texas Department of Public Safety shall be subject to a six-month probationary period, as provided in Section 411.007, Government Code V.T.C.A.

(4) All such persons employed by the Texas Department of Public Safety shall be assigned to a rank or position consistent with their duties and responsibilities at the sole discretion of the Texas Department of Public Safety. The salary for such rank or position shall be consistent with the Texas Department of Public Safety rules and regulations and applicable state laws.

(5) The State Purchasing and General Services Commission shall provide office space for this operational unit to the Texas Department of Public Safety in the American Legion Building or other suitable facility, acceptable to the Texas Department of Public Safety.

(6) All revenues generated from parking fees and violations shall be deposited into the General Revenue Fund and shall be subject to appropriation by the Legislature of the State of Texas.

(7) All funds appropriated to the State Purchasing and General Services Commission for purposes of operating the Capitol Security Police Division are transferred to the Texas Department of Public Safety to be used for the operation of the unit.

The amendment was read and was adopted by a viva voce vote.

(President in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.H.B. 78 in SECTION 2.50 of the bill, in the amended Section 14.02(c) of the State Purchasing and General Services Act, by striking the underlined sentence (Committee Printing, page 20, lines 62 and 63) and substituting the following:

The commission shall divide the state into at least six geographical regions for the purpose of awarding contracts to the providers of travel agency services. The division of the state shall be made in a manner that forms logical parts of the state and promotes the public interest. For each region, the commission shall make contracts with more than one provider of travel agency services. At least one of the contracts for each region must be with a provider of travel agency services that has its principal place of business in the region.

BARRIENTOS
TURNER

The amendment was read and was adopted by a viva voce vote.

(Senator Henderson in Chair)

Senator Green offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.H.B. 78 as follows:

On page 20, line 19 strike “.” and add “the use of negotiated contract rates for travel services for state agencies.”.

On page 20, strike lines 20 through 26 and on lines 59 and 60 strike “with private travel agents.”.

On page 20 strike lines 66 through 70 and on page 21 strike lines 1 through 4, insert in lieu thereof the following:

(d) The commission may not enter into contracts with private travel agents. The commission shall publish the rates for negotiated travel services. The State

Comptroller shall adopt rules for reimbursement of state travel costs based on the rates negotiated by the commission. The comptroller may reimburse a state employee or state agency for travel services at a rate that exceeds the negotiated rate only when the negotiated rate or a lesser rate was unobtainable for necessary travel. The comptroller may adopt rules necessary for the performance of its duties under this subsection.

GREEN
TURNER
ROSSON

The amendment was read.

Senator Leedom moved to table the amendment.

The motion to table was lost by the following vote: Yeas 11, Nays 18.

Yeas: Armbrister, Brown, Dickson, Glasgow, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Moncrief, Sims.

Nays: Barrientos, Bivins, Brooks, Carriker, Ellis, Green, Haley, Johnson, Lucio, Parker, Ratliff, Rosson, Sibley, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent: Montford.

Absent-excused: Lyon.

(Senator Brooks in Chair)

Question recurring on the adoption of Floor Amendment No. 8, the amendment was adopted by a viva voce vote.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.H.B. 78 by adding a new SECTION 5.02 and renumbering the subsequent sections appropriately:

SECTION 5.02. Section 6(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The governor biennially shall appoint a chair ~~chairman~~ from the board's members. The chair biennially shall appoint a vice-chair from the board's members. ~~The board biennially shall elect a vice-chairman from its members.~~

Amend C.S.H.B. 78 by adding new SECTIONS 5.04 through 5.14 and renumbering the subsequent sections appropriately:

SECTION 5.04. Section 8, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. EXECUTIVE DIRECTOR AND STAFF; CONSULTANTS; ATTORNEY GENERAL AND OTHER LEGAL COUNSEL. (a) The governor shall appoint an executive director with the advice and consent of the Senate for a term of two years to manage the authority. The executive director shall employ staff and contract with consultants as necessary to perform the functions of the authority. Employees of the authority are state employees.

(b) The attorney general serves as the general counsel to the authority. A member of the board may not be held liable for damages resulting from a board action taken in reliance on advice of the attorney general. This subsection does not

affect a defense or immunity available to a board member under common law or other statute.

(c) If the authority contracts for, or engages the professional services of, private legal counsel, the selection and award of the contract or the engagement of the professional services of the private legal counsel is subject to the requirements of the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes) for the procurement of architectural or engineering services by an entity described by Section 3 of that Act. The board shall employ persons and contract with consultants as necessary for the board to perform its functions. Employees of the board are considered to be state employees.

SECTION 5.05. Section 9A(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The authority may issue and sell obligations for the financing of a lease or other agreement so long as the agreement concerns equipment that a state agency has purchased or leased or intends to purchase or lease. The authority shall develop a program and adopt rules for the financing of a package of agreements concerning equipment that one or more state agencies have purchased or leased or intend to purchase or lease. On receipt of a request for financing of a package of agreements concerning equipment that one or more state agencies have purchased or leased or intend to purchase or lease. On receipt of a request for financing under this section, the authority shall promptly seek all approvals required by law for the issuance and sale of the obligations. On obtaining the required approvals, the authority shall promptly issue and sell all approved obligations. The authority's power to issue obligations includes the power to issue and sell obligations for the financing of a package of agreements involving one or more state agencies.

SECTION 5.06. Section 11, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. SCOPE OF POWER. (a) The board's authority under this Act is limited to the financing of the acquisition or construction of a building or the purchase or lease of equipment. That authority does not affect the authority of the commission or any other state agency.

(b) The board may not decline to issue or sell bonds or obligations for projects approved by the legislature.

(c) Buildings and equipment financed by the authority pursuant to this Act shall not become part of other property to which they may be attached or affixed or into which they may be incorporated, regardless of whether the other property is real or personal.

SECTION 5.07. Section 15(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In an order or resolution authorizing the issuance of bonds or obligations, including the refunding of bonds or obligations, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds. In addition, the board may make covenants with respect to the bonds or obligations, the pledged revenues, and the operation and maintenance of the buildings or equipment financed under this Act. The board may not require, as a condition of the issuance or sale of bonds or obligations, covenants, or provisions in the form or structure of the issuance that the bond review board prohibits by rule. The board shall make any modification in the form or structure of an issuance required by the bond review board as a condition of approval.

SECTION 5.08. Section 4(c), Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The authority by rule shall establish guidelines, criteria, and procedures for requests for financing and distributions of bond proceeds.

SECTION 5.09. Section 10, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. AUTHORIZATION. Before the authority may issue and sell bonds under this Act, the legislature by law must have authorized the specific projects in this Act, the General Appropriations Act, or the Texas Public Finance Building Authority Act (Article 601d, Vernon's Texas Civil Statutes). When the legislature authorizes the issuance and sale of bonds under this Act and the authority receives a request for financing in the form prescribed by authority rule, the authority shall promptly seek all approvals required by law for the issuance and sale of those bonds. On obtaining the required approvals, the authority shall promptly issue and sell all approved bonds.

SECTION 5.10. Section 5, Chapter 626, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. APPLICATION OF PUBLIC FINANCE BUILDING AUTHORITY ACT. Bonds issued and projects constructed under this Act are subject to the provisions of Sections ~~13, 14, 15, 16, 17, 18, 19, and 20~~ of the Texas Public Finance Building Authority Act (Article 601d, Vernon's Texas Civil Statutes) as necessary to carry out the purposes of this Act, but in the event of a conflict the provisions of this Act prevail.

SECTION 5.11. Section 3, Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsections (f) and (g) to read as follows:

(d) The board may adopt rules governing application for review, the review process, and reporting requirements, and the form and structure of a state bond issuance.

(f) The board may by rule provide for an issuer to recommend that the issuance of certain state bonds is not advisable due to changes in fiscal circumstances or other conditions occurring after the legislature authorizes the bonds. The board is not bound by the issuer's recommendation on the advisability of issuance.

(g) As a condition of approval of the issuance of state bonds, the board may require an issuer to modify any provision of the form or structure of the bond issuance to conform to board rule or to ensure compliance with legislative intent under applicable state law, as determined by the board.

SECTION 5.12. Section 4, Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k-7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. BOND FINANCE OFFICE; CAPITAL FACILITIES PLAN. (a) The bond finance office is managed by a director appointed by the bond review board and a staff selected by the director appointed by the bond review board and a staff selected by the director. Whenever practical, the office shall make use of the resources of the Legislative Budget Board and the offices of the governor, comptroller, and treasurer.

(b) The Legislative Budget Board and the Governor's Office of Budget and Planning shall annually assess the capital facilities needs of the state and prepare for the board a report establishing a plan for the acquisition or construction of needed capital facilities during the five years immediately following the date of the report. The board shall review the plan and make recommendations to the legislature regarding the structure and timing of financing for capital facilities listed in the plan.

SECTION 5.13. Section 5, Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k-7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. ANNUAL REPORT OF OFFICE. Not later than ~~120~~ 90 days after the end of each state fiscal year, the office shall publish a report that lists:

- (1) the amount of state bonds outstanding;
- (2) applicable repayment schedules;
- (3) for each state bond program obtaining revenues from sources other than legislative appropriation for payment of principal and interest on outstanding bonds, a schedule of all revenues received and all expenditures paid during that fiscal year and anticipated to be received and paid during each subsequent year the bonds are outstanding; and
- (4) any other information the office considers relevant.

SECTION 5.14. (a) The change in law made by Section 8(c), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), as added by this Act, applies only to a contract for legal services entered into by the board of directors of the Texas Public Finance Authority on or after the effective date of this Act. A contract for legal services entered into by that board before the effective date of this Act is governed by the law in effect when the contract was entered into, and that law is continued in effect for this purpose.

(b) The member of the board of directors of the Texas Public Finance Authority serving as vice-chairman of that board on the date one day before the effective date of this Act continues to serve in that office until the chair of the board appoints a vice-chair under Section 6(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), as amended by this Act.

The amendment was read.

On motion of Senator Barrientos and by unanimous consent, the amendment was withdrawn.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 10

Amend SECTION 5.31 of C.S.H.B. 78 (page 48, line 33) by amending Section 21B(b) and by adding a new Section 21B(c) to read as follows:

(b) The department shall adopt rules that govern student access to the system, including times of access to the system, and the full recovery of actual costs from each student who uses the system. Actual costs include, but are not limited to network costs, administrative costs, billing and collections costs, and maintenance and facility costs.

(c) An institution which elects to provide telecommunications services under this section may only do so if the rate to be charged to the student is less than the lowest and best bid at which a private provider is willing to furnish such service. Such bids by private provider shall include payment of a one-cent per minute fee to the Comptroller of Public Accounts for deposit to the General Revenue Fund.

The amendment was read and was adopted by a viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.H.B. 78 in Part 2 by inserting a new SECTION 2.49 to read as follows:

SECTION 2.49. Article 11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 11.06 to read as follows:

Sec. 11.06. PRINTING. (a) The commission shall assist state agencies and assess and evaluate their printing activities. It shall recommend changes designed to achieve increased productivity and cost effectiveness of these operations.

Recommendations shall be reported to the appropriate associate deputy director periodically as determined by the rules of the commission.

(b) The commission shall:

(1) adopt standard accounting procedures that permit the evaluation and comparison of the costs of printing operations conducted by state agencies;

(2) coordinate activities among state print shops;

(3) review state agency requisitions for new printing equipment;

(4) serve as a resource to state agencies to expedite the production of printing and graphic arts;

(5) maintain a current roster of state print shops and their equipment, facilities, and special capabilities;

(6) serve as a clearinghouse for private vendors of printing services to ensure that printing services and supplies are purchased in the most efficient and economical manner;

(7) coordinate the consolidation of print shops operated by state agencies when consolidation is determined to be appropriate by the agencies involved; and

(8) develop procedures for the recovery of the commission's reasonable costs, under the provisions of Chapter 317, Government Code, out of amounts appropriated to the state agencies in which identified savings are achieved.

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.H.B. 78 to add a new Part 3A to read as follows:

SECTION 1. Section 252.021, Local Government Code, is amended to read as follows:

Sec. 252.021. **COMPETITIVE BIDDING AND COMPETITIVE PROPOSAL REQUIREMENTS.** (a) Before a municipality [~~with 50,000 or more inhabitants~~] may enter into a contract that requires an expenditure of more than \$15,000 [~~\$10,000~~] from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals provided, however, all bids for insurance requiring a payment of \$5,000 or more shall be by competitive bids or proposals.

(b) [~~Before a municipality with fewer than 50,000 inhabitants may enter into a contract that requires an expenditure of more than \$5,000, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals:~~]

[(c)] A municipality may use the competitive sealed proposal procedure only for high technology procurements.

SECTION 2. Section 271.024, Local Government Code, is amended to read as follows:

Sec. 271.024. **COMPETITIVE BIDDING PROCEDURE APPLICABLE TO CONTRACT.** If a governmental entity is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$15,000 [~~\$10,000~~] from the funds of the entity, the bidding on the contract must be accomplished in the manner provided by this subchapter.

SECTION 3. Section 252.041(a), Local Government Code, is amended to read as follows:

(a) If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud

~~[contract will be let]~~ must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud ~~[let the contract]~~. If no newspaper is published in the municipality, the notice must be posted at the city hall for 14 days before the date set to publicly open the bids and read them aloud ~~[let the contract]~~.

SECTION 4. Section 252.002, Local Government Code, is amended to read as follows:

Sec. 252.002. MUNICIPAL CHARTER CONTROLS IN CASE OF CONFLICT. Any provision in the charter of a home-rule municipality that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, ~~[or] the manner of publicly opening bids or reading them aloud, or the manner of letting contracts and that is in conflict with this chapter controls over this chapter unless the municipality elects to have this chapter supersede the charter.~~

SECTION 5. Sections 271.055(a) and (b), Local Government Code, are amended to read as follows:

Sec. 271.055. NOTICE TO BIDDERS. (a) An issuer must give notice of the time, date, and place at which the issuer will publicly open the bids on a contract ~~[let a contract]~~ for which competitive bidding is required by this subchapter and read the bids aloud. The notice must be given in accordance with Subsection (b) or in accordance with:

- (1) Chapter 252, if the issuer is a municipality;
- (2) the municipal charter of the issuer, if the issuer is a home-rule municipality; or
- (3) the County Purchasing Act (Subchapter C, Chapter 262), if the issuer is a county.

(b) If an issuer gives notice under this subsection, the notice must:

- (1) be published once a week for two consecutive weeks in a newspaper, as defined by Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 28a, Vernon's Texas Civil Statutes), that is of general circulation in the area of the issuer, with the date of the first publication to be before the 14th day before the date set for the public opening of the bids and the reading of the bids aloud ~~[receipt of bids]~~; and

- (2) state that plans and specifications for the work to be done or specifications for the machinery, supplies, equipment, or materials to be purchased are on file with a designated official of the issuer and may be examined without charge.

SECTION 6. Section 252.022(a), Local Government Code, is amended to read as follows:

(a) This chapter does not apply to an expenditure for:

- (1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

- (2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

- (3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

- (4) a procurement for personal or professional services;

- (5) a procurement for work that is performed and paid for by the day as the work progresses;

- (6) a purchase of land or a right-of-way;

- (7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
 (B) films, manuscripts, or books;
 (C) electricity, gas, water, and other utility services;
 (D) captive replacement parts or components for equipment; and

(E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials;

(8) a purchase of rare books, papers, and other library materials for a public library;

(9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10) a public improvement project, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212; [and]

(12) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; and

(13) services performed by blind or severely disabled persons.

SECTION 7. Section 252.043, Local Government Code, is amended to read as follows:

Sec. 252.043. AWARD OF CONTRACT. (a) If the competitive sealed bidding requirement applies to the contract, the contract must be awarded to the lowest responsible bidder. The governing body may reject any and all bids.

(b) If the competitive sealed proposals requirements applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relevant importance of price and the other evaluation factors included in the request for proposals.

The amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 13

Amend C.S.H.B. 78 in Part 5 of the bill by inserting a new SECTION 5.021 as follows:

SECTION 5.021. Section 24A(c), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Notwithstanding the limitations prescribed by Section 9 of this Act relating to the location of buildings for which bonds may be issued, the authority may issue bonds under this Act to finance the renovation of West Building, G. J. Sutton State Office Complex in Bexar County, at an estimated cost of \$1,375,000; the construction or purchase and renovation of a building or buildings by the State Purchasing and General Services Commission in Tarrant County, at an estimated cost of \$10,000,000; [and] the construction or purchase and renovation of a building or buildings by the State Purchasing and General Services Commission in Harris

County, at an estimated cost of \$20,000,000; and the construction by the State Purchasing and General Services Commission of a state office building on land owned by The Texas A&M University System in Nueces County, at an estimated cost of \$10,000,000. For purposes of this subsection regarding Tarrant and Harris counties, the State Purchasing and General Services Commission shall, prior to requesting the authority to issue bonds, prepare project analyses for the potential construction projects and subsequent thereto perform an alternative purchase analysis pursuant to the provisions of Section 5.34, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

The amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 14

Amend C.S.H.B. 78, SECTION 5.30, page 47, line 56, by adding Subsection (f) as follows:

"(f) In consideration of the duties and responsibilities hereby given the department under this Act, it shall be in keeping with the policy of this state that no state agency or unit of state government shall engage in the provision of telecommunications products or services to the general public in competition with private enterprise unless the agency or unit of state government demonstrates an overriding or compelling public interest served by engaging in such activity."

The amendment was read.

Senator Krier offered the following amendment to Floor Amendment No. 14:

Floor Amendment No. 15

Amend Floor Amendment No. 14 to C.S.H.B. 78, SECTION 5.30, page 132, line 7, by adding a new sentence as follows:

This shall not prohibit students who reside in housing for which institutions of higher education provide telephone service from using service provided under Section 5.31.

The amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 14 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Haley offered the following amendment to the bill:

Floor Amendment No. 16

Amend C.S.H.B. 78 as follows:

1) On page 21, line 41, amend Article 15, Section 15.01 by inserting between the words "Safety" and "or", the Texas Department of Criminal Justice, the Texas Youth Commission.

HALEY
TURNER

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos again offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.H.B. 78 by adding a new SECTION 5.02 and renumbering the subsequent sections appropriately:

SECTION 5.02. Section 6(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The governor biennially shall appoint a chair chairman from the board's members. The chair biennially shall appoint a vice-chair from the board's members. The board biennially shall elect a vice-chairman from its members:

Amend C.S.H.B. 78 by adding new SECTIONS 5.04 through 5.14 and renumbering the subsequent sections appropriately:

SECTION 5.04. Section 8, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. EXECUTIVE DIRECTOR AND STAFF; CONSULTANTS; ATTORNEY GENERAL AND OTHER LEGAL COUNSEL. (a) The governor shall appoint an executive director with the advice and consent of the Senate for a term of two years to manage the authority. The executive director shall employ staff and contract with consultants as necessary to perform the functions of the authority. Employees of the authority are state employees.

(b) The attorney general serves as the general counsel to the authority. A member of the board may not be held liable for damages resulting from a board action taken in reliance on advice of the attorney general. This subsection does not affect a defense or immunity available to a board member under common law or other statute.

(c) If the authority contracts for, or engages the professional services of, private legal counsel, the selection and award of the contract or the engagement of the professional services of the private legal counsel is subject to the requirements of the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes) for the procurement of architectural or engineering services by an entity described by Section 3 of that Act. The board shall employ persons and contract with consultants as necessary for the board to perform its functions. Employees of the board are considered to be state employees.

SECTION 5.05. Section 9A(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The authority may issue and sell obligations for the financing of a lease or other agreement so long as the agreement concerns equipment that a state agency has purchased or leased or intends to purchase or lease. The authority shall develop a program and adopt rules for the financing of a package of agreements concerning equipment that one or more state agencies have purchased or leased or intend to purchase or lease. On receipt of a request for financing of a package of agreements concerning equipment that one or more state agencies have purchased or leased or intend to purchase or lease. On receipt of a request for financing under this section, the authority shall promptly seek all approvals required by law for the issuance and sale of the obligations. On obtaining the required approvals, the authority shall promptly issue and sell all approved obligations. The authority's power to issue obligations includes the power to issue and sell obligations for the financing of a package of agreements involving one or more state agencies:

SECTION 5.06. Section 11, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. SCOPE OF POWER. (a) The board's authority under this Act is limited to the financing of the acquisition or construction of a building or the purchase or lease of equipment. That authority does not affect the authority of the commission or any other state agency.

(b) The board may not decline to issue or sell bonds or obligations for projects approved by the legislature.

(c) Buildings and equipment financed by the authority pursuant to this Act shall not become part of other property to which they may be attached or affixed

or into which they may be incorporated, regardless of whether the other property is real or personal.

SECTION 5.07. Section 15(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In an order or resolution authorizing the issuance of bonds or obligations, including the refunding of bonds or obligations, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds. In addition, the board may make covenants with respect to the bonds or obligations, the pledged revenues, and the operation and maintenance of the buildings or equipment financed under this Act. The board may not require, as a condition of the issuance or sale of bonds or obligations, covenants, or provisions in the form or structure of the issuance that the bond review board prohibits by rule. The board shall make any modification in the form or structure of an issuance required by the bond review board as a condition of approval.

SECTION 5.08. Section 4(c), Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The authority by rule shall establish guidelines, criteria, and procedures for requests for financing and distributions of bond proceeds.

SECTION 5.09. Section 10, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. AUTHORIZATION. Before the authority may issue and sell bonds under this Act, the legislature by law must have authorized the specific projects in this Act, the General Appropriations Act, or the Texas Public Finance Building Authority Act (Article 601d, Vernon's Texas Civil Statutes). When the legislature authorizes the issuance and sale of bonds under this Act and the authority receives a request for financing in the form prescribed by authority rule, the authority shall promptly seek all approvals required by law for the issuance and sale of those bonds. On obtaining the required approvals, the authority shall promptly issue and sell all approved bonds.

SECTION 5.10. Section 5, Chapter 626, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. APPLICATION OF PUBLIC FINANCE BUILDING AUTHORITY ACT. Bonds issued and projects constructed under this Act are subject to the provisions of Sections 13, 14, 15, 16, 17, 18, 19, and 20 of the Texas Public Finance Building Authority Act (Article 601d, Vernon's Texas Civil Statutes) as necessary to carry out the purposes of this Act, but in the event of a conflict the provisions of this Act prevail.

SECTION 5.11. Section 3, Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsections (f) and (g) to read as follows:

(d) The board may adopt rules governing application for review, the review process, and reporting requirements, and the form and structure of a state bond issuance.

(f) The board may by rule provide for an issuer to recommend that the issuance of certain state bonds is not advisable due to changes in fiscal circumstances or other conditions occurring after the legislature authorizes the bonds. The board is not bound by the issuer's recommendation on the advisability of issuance.

(g) As a condition of approval of the issuance of state bonds, the board may require an issuer to modify any provision of the form or structure of the bond issuance to conform to board rule or to ensure compliance with legislative intent under applicable state law, as determined by the board.

SECTION 5.12. Section 4, Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k-7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. **BOND FINANCE OFFICE; CAPITAL FACILITIES PLAN.** (a) The bond finance office is managed by a director appointed by the bond review board and a staff selected by the director appointed by the bond review board and a staff selected by the director. Whenever practical, the office shall make use of the resources of the Legislative Budget Board and the offices of the governor, comptroller, and treasurer.

(b) The Legislative Budget Board and the Governor's Office of Budget and Planning shall annually assess the capital facilities needs of the state and prepare for the board a report establishing a plan for the acquisition or construction of needed capital facilities during the five years immediately following the date of the report. The board shall review the plan and make recommendations to the legislature regarding the structure and timing of financing for capital facilities listed in the plan.

SECTION 5.13. Section 5, Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k-7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. **ANNUAL REPORT OF OFFICE.** Not later than 120 90 days after the end of each state fiscal year, the office shall publish a report that lists:

- (1) the amount of state bonds outstanding;
- (2) applicable repayment schedules;
- (3) for each state bond program obtaining revenues from sources other than legislative appropriation for payment of principal and interest on outstanding bonds, a schedule of all revenues received and all expenditures paid during that fiscal year and anticipated to be received and paid during each subsequent year the bonds are outstanding; and
- (4) any other information the office considers relevant.

SECTION 5.14. (a) The change in law made by Section 8(c), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), as added by this Act, applies only to a contract for legal services entered into by the board of directors of the Texas Public Finance Authority on or after the effective date of this Act. A contract for legal services entered into by that board before the effective date of this Act is governed by the law in effect when the contract was entered into, and that law is continued in effect for this purpose.

(b) The member of the board of directors of the Texas Public Finance Authority serving as vice-chairman of that board on the date one day before the effective date of this Act continues to serve in that office until the chair of the board appoints a vice-chair under Section 6(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), as amended by this Act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 78 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 78 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lyon.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

GUEST PRESENTED

The President acknowledged the presence of United States Congressman and former Senator, Chet Edwards.

The Senate welcomed Congressman Edwards.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Ratliff, on behalf of Senator Montford, and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Finance might consider **S.B. 82** today.

RECESS

On motion of Senator Glasgow, the Senate at 1:13 p.m. took recess until 4:30 p.m. today.

AFTER RECESS

The Senate met at 4:30 p.m. and was called to order by Senator Glasgow.

MESSAGE FROM THE HOUSE

House Chamber
July 26, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 4, Relating to the functions, including licensing functions, and reorganization of state agencies; providing penalties.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 4, To Committee on State Affairs.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider the following bill and resolution today:

H.B. 4
H.J.R. 10

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Montford submitted the following report for the Committee on Finance:

S.B. 82

CONGRATULATORY RESOLUTIONS

H.C.R. 1 - (Montford, Bivins): Honoring Dr. Marvin L. Baker for his many years of distinguished service to South Plains College and the State of Texas.

S.C.R. 9 - By Ratliff, Haley: Commending Rhonda Rene Morrison on her exceptional achievements.

S.R. 62 - By Turner: Extending congratulations to A. B. and Mildred Ham on the occasion of their 50th wedding anniversary.

S.R. 63 - By Turner: Extending congratulations to Art and Alcan Sander on the occasion of their 50th wedding anniversary.

S.R. 64 - By Turner: Extending congratulations to Wayne and Sydnee Butler on the occasion of their 50th wedding anniversary.

S.R. 65 - By Lucio: Honoring Captain Homer G. Saenz on the occasion of his retirement after more than 30 years with the Brownsville Police Department.

S.R. 66 - By Sims: Extending congratulations to Mr. and Mrs. Tommie Key of Fort Stockton on the occasion of their 50th wedding anniversary.

S.R. 67 - By Sims: Extending congratulations to Mr. and Mrs. S. F. Palmer of Robert Lee on the occasion of their 50th wedding anniversary.

S.R. 68 - By Sims: Extending congratulations to Mr. and Mrs. Edward C. Ellis of San Angelo on the occasion of their 50th wedding anniversary.

S.R. 69 - By Sims: Extending congratulations to Mr. and Mrs. Alley James Bilbo of Robert Lee on the occasion of their 70th wedding anniversary.

S.R. 70 - By Sims: Extending congratulations to Mr. and Mrs. Russell Sallee on the occasion of their 50th wedding anniversary.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 4:53 p.m. adjourned until 2:00 p.m. Sunday, July 28, 1991.

ELEVENTH DAY
(Sunday, July 28, 1991)

The Senate met at 2:00 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Heavenly Father, we seek Thy presence this afternoon as this work session begins and pray that the actions of the Senate today will find favor with You. Grant that this will be a day of progress, when the minds and energies of the Senate focus on the urgent and unfinished agenda.